



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 15 June 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 15 June 2017

CONTENTS

	Col.
NEW PETITIONS	1
Council Tax Bands (PE1649)	1
Postgraduate Degree Funding (Eligibility) (PE1650)	3
Abusive and Threatening Communication (PE1652)	4
CONTINUED PETITIONS	7
Child Abuse (Mandatory Reporting) (PE1551)	7
Criminal Injuries Compensation Scheme (PE1612)	9
Pathological Demand Avoidance Syndrome (PE1625)	11
Private Criminal Prosecutions (PE1633)	14
Single-use Drinks Cups (PE1636)	16
Thyroid and Adrenal Testing and Treatment (PE1463)	17
NEW PETITION	28
Business Rates (Nurseries) (PE1648)	28
CONTINUED PETITION	34
Youth Football (PE1319)	34

PUBLIC PETITIONS COMMITTEE
12th Meeting 2017, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Angus MacDonald (Falkirk East) (SNP)

COMMITTEE MEMBERS

*Maurice Corry (West Scotland) (Con)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lorraine Cleaver

Stephanie Dodds

Neil Doncaster (Scottish Professional Football League)

James Dornan (Glasgow Cathcart) (SNP)

Andrew McKinlay (Scottish Football Association)

John Midgley

Stewart Regan (Scottish Football Association)

Claire Schofield (National Day Nurseries Association)

Elaine Smith (Central Scotland) (Lab)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Public Petitions Committee

Thursday 15 June 2017

[The Convener opened the meeting at 08:45]

New Petitions

Council Tax Bands (PE1649)

The Convener (Johann Lamont): I welcome everyone to the 12th meeting in 2017 of the Public Petitions Committee. I remind everyone to turn their phones and other devices to silent.

The first item is new petitions, and our first new petition is PE1649, by Jennifer Lawrie, on council tax bands. Members have a copy of the petition, a Scottish Parliament information centre briefing and a note by the clerk. The petition calls on the Scottish Parliament to urge the Scottish Government to revalue all council tax bands in line with changes to the property market since 1991.

The SPICe briefing explains how the current system operates, and that the issues raised by the petition have recently been reviewed by the commission on local tax reform and by the Local Government and Communities Committee. I will not repeat everything that is covered in the SPICe briefing, but it is worth highlighting the fact that the commission heard evidence suggesting that, if revaluation had taken place in 2014, 57 per cent of properties in Scotland would have changed their council tax band. The Scottish Assessors Association also informed the commission that

“a revaluation exercise to a revised system of property valuation bands could be achieved at a cost of £5.5 million to £7 million and take two to three years.”

The SPICe briefing explains that the commission and the Local Government and Communities Committee both came to the conclusion that that policy change would be costly and challenging to implement. Do members have any comments or suggestions to make?

Angus MacDonald (Falkirk East) (SNP): I can certainly see why the petitioner has submitted the petition. However, having looked at the other reports, I see that it would be logistically and administratively challenging, as well as quite costly, and there would undoubtedly be some shocks for householders. You have to be careful what you wish for at times. That said, I think that we should write to the Scottish Government and to the Convention of Scottish Local Authorities to seek their views on the petition.

Maurice Corry (West Scotland) (Con): I agree.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I hesitated about writing to the Scottish Government, because it has made its position quite clear, but it would be worth getting COSLA's view. I am happy to go along with the suggestion that we should write to the Government, although I think that we know what the answer will be.

Brian Whittle (South Scotland) (Con): We will get the current position reiterated, but we should definitely write to COSLA.

The Convener: You could argue about whether to have the council tax, or whether there could be a different form of local government finance. Even though it would be costly to change, as long as we have got it, it seems unjust that somebody who happens to be in a property that would have been deemed to have a certain value in 1991 should still be taxed in that particular band. Some properties will have improved and some will have deteriorated, but they have all stuck in the same band. Some people may get a bit of a shock in one direction, but others may benefit in the other direction. I am not advocating it, but I question why revaluation has been put into the “too hard” box, not simply because it is expensive but because people who are currently benefiting unfairly from the system would have to pay more. The point that the petitioner is making is that council tax bands do not relate to the values of properties now.

Rona Mackay: You could ask why we should go to the expense of that huge administrative task if the long-term view is that the council tax should be replaced, in which case revaluation would not be needed anyway. It is a difficult question.

Maurice Corry: We are having the debate. We should get the views of the Government and of COSLA before we even start looking at this.

The Convener: We can agree to write to the Scottish Government and to COSLA. I would be interested to find out whether there are other organisations that are campaigning on the issue and may have a view.

In writing to the Scottish Government and COSLA, we should make it clear that we understand the issue of cost and risk to people but there is a fundamental sense of injustice here. After all, there are areas where property values have gone up and other areas where they have gone down, and people's council tax depends on where their property happened to be in 1991. I think that the petitioner has identified a problem; that seems fair, but finding a solution to it might be a bit more difficult.

If the committee agrees, we will write to the Scottish Government and to COSLA, asking for their views on the petition. Are we agreed?

Members indicated agreement.

Postgraduate Degree Funding (Eligibility) (PE1650)

The Convener: PE1650, by Rebecca Jaynes, is on the Student Awards Agency Scotland's postgraduate eligibility criteria. Members have a copy of the petition, a SPICe briefing and a note by the clerk.

The petition relates to the funding eligibility criteria for postgraduate students in Scotland, with the petitioner expressing concern that individuals who have studied an undergraduate degree in Scotland but who are ordinarily resident in the United Kingdom are not eligible for funding. In particular, she has highlighted a funding gap with regard to the postgraduate diploma in legal practice, which forms part of the route to qualifying as a Scottish solicitor.

Do members have any questions or comments?

Brian Whittle: The petition is quite interesting, given the discussions that we are about to have about working in the Scottish legal system, which is obviously different from the system in England. We should certainly consider writing to the Scottish Government and perhaps some of the student bodies to highlight the issue and get their opinion. It certainly seems to me that, if you are looking to do a postgraduate course in order to get into the Scottish legal system, you will be working in our country, and it is worth asking the Government and student bodies about that.

Rona Mackay: I agree. We could certainly seek their views.

The Convener: I am not sure about the extent to which there is funding for postgraduate courses, full stop. By funding, does the petitioner simply mean access to student loans? We will all have anecdotal evidence of people in our families having to pay for postgraduate courses themselves. I am just not sure about the funding. Would a person who was deemed to be living in Scotland have access to funding for this diploma and, if so, what would the funding be? Another interesting issue is that funding for such a course will not be available elsewhere in the United Kingdom, because it is specifically about Scots law and for people who will be working in Scotland.

I think that we are agreed that we will write to the Scottish Government, the National Union of Students Scotland, the Student Awards Agency Scotland and Universities Scotland, seeking their views on the petition and perhaps a clarification of which courses attract support or, if not support, then the right to access a loan. It would be really useful to know that, because I know that in some professions, such as teaching, some local authorities will provide funding for postgraduate

diplomas. It would be interesting to find out what that landscape looks like, how such decisions are made and whether there are examples of bodies funding people coming to Scotland from elsewhere in the United Kingdom to do postgraduate courses. I guess that the petition highlights what for me is the big anomaly that, of all European Union students, the only ones who do not get access to free tuition in Scotland are those from England and Wales.

If members have no other suggestions, does the committee agree to write to the Scottish Government, the National Union of Students Scotland, the Student Awards Agency Scotland and Universities Scotland, asking for their views on the petition and the interesting issues that it highlights?

Members indicated agreement.

Abusive and Threatening Communication (PE1652)

The Convener: PE1652, by Irene Baillie, is on abusive and threatening communication. Members have a copy of the petition, a SPICe briefing and a note by the clerk.

The petition is concerned with the operation of the existing law on abusive and threatening communication and the extent to which it is enforceable, particularly in cases involving text messaging. The petitioner takes the view that the law needs to be reviewed, and the SPICe briefing advises that the relevant law is contained in the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

Do members have any comments or suggestions?

Brian Whittle: I would like to understand whether there are differences in the law between Scotland and the rest of the UK. I would have thought that threatening behaviour through text is the same as any other threatening behaviour and that the person could be prosecuted. I would like to understand the position. We should perhaps write to Police Scotland or the Crown Office and Procurator Fiscal Service to ask them to clarify the position.

The Convener: There seems to be an issue about the impact of having to get corroboration that the text was actually sent by the person who owns the phone. I suppose that that is why the argument is put forward that there should be strict liability and that the person should therefore be responsible because it is their phone. However, I am aware from speaking to young people that from time to time they use other people's phones to send messages or whatever.

Maurice Corry: One of the questions that I have written down is that we should consider asking the Scottish Government what action has been taken on the corroboration aspect, which follows on from the point about the Cabinet Secretary for Justice's decision in April 2015 to postpone a proposal to abolish corroboration. We need to be specific about that.

Rona Mackay: I clarify that the issue is part of the hate crime review that was launched at the beginning of the year.

Brian Whittle: Corroboration has been mentioned. Is the idea that in this case the law should be similar to when, if someone's car is caught speeding, they are liable unless they can prove that somebody else was driving?

The Convener: I think that that is the argument that the petitioner is making. It would be interesting to know the views of those who are involved in the criminal justice system on the consequences of such an approach. We are not minimising in any way the impact of being at the receiving end of abusive and threatening communication yet not being able to get a prosecution because there is a need for corroboration. When someone can use such communication in a systematic way in a course of hostility towards you, it must be very difficult if, although it is recognised that it is happening, it cannot be proved. It would be interesting to ask the organisations that we write to whether strict liability would work. Would addressing the issue through changes to the legislation on corroboration make sense? Fundamentally, as Rona Mackay says, if this is a hate crime, how do we police it if we are not going to do it in the way that has been suggested?

Rona Mackay: The cabinet secretary said that the corroboration aspect would be part of a wider package of measures that was to be reviewed in the next session of Parliament, so it is obviously on the radar. It would be good to get clarification of where we are on that.

The Convener: It is proposed that we write to the Scottish Government, Police Scotland and the Crown Office and Procurator Fiscal Service. It would probably be good to write to some of the women's organisations that support people who are dealing with abuse and violence. We should write to women's organisations and organisations that deal with victims, especially since there is now recognition in the legislation that is coming through from the Government that not only physical violence but coercive control and so on are part of the issue. Should we write to anyone else?

We have got to the point that we understand that abusive and threatening communication is a crime and that it is a course of action that is

directed against someone, but the issue is securing a prosecution and what steps should be taken to address that.

Maurice Corry: Exactly.

The Convener: Do we agree to write to the Scottish Government, Police Scotland, the Crown Office and Procurator Fiscal Service, women's organisations and victims organisations to seek their views on the petition and, specifically, issues around the hate crime review, corroboration and the potential for the use of strict liability?

Members *indicated agreement.*

Continued Petitions

Child Abuse (Mandatory Reporting) (PE1551)

08:59

The Convener: Agenda item 2 is consideration of five continued petitions. The first petition for consideration is PE1551, on mandatory reporting of child abuse, which was lodged by Scott Pattinson.

Members will recall that, following our previous consideration of the issue, we wrote to the Scottish Government to establish why it was waiting for the outcome of the UK Government's consultation on the issue, and whether it had a cut-off point at which it would develop its own approach. We have received a response from the Minister for Childcare and Early Years in which he refers to submissions provided to the session 4 committee, which included views that if the Scottish Government was to develop its own approach, it would require a public consultation.

The minister clarifies the scope of the UK Government consultation on the matter and appears to suggest that the Scottish Government would simply be duplicating that consultation if it explored options for its own approach. The minister states that the Scottish Government will consider the findings of the UK Government consultation as soon as the results are published and that those results will be considered within

"the wider context of the ... child protection landscape in Scotland",

taking account of existing legislation. However, there remains a lack of certainty about when the UK Government will publish the results of its consultation.

The minister also states that mandatory reporting will be considered in the context of the child protection improvement programme and identifies that the issue may be considered as part of the review of all

"current legislation on abuse and harm".

The petitioner's submission indicates that he does not consider that the Scottish Government has answered the question of why it will not establish its own approach to mandatory reporting.

I was struck by what came out in the submissions that people have provided from a range of organisations. People understand the motivation for the petition but believe that it would have an unintended consequence. It seems to me that people are quite happy to participate in the argument and the debate around mandatory reporting so I genuinely do not understand why we

are waiting for the results of the UK Government consultation, which is presumably just for England and Wales. In their evidence, people also say that the landscape in Scotland is different, in particular because of the children's hearings system.

I think that it is not about deciding whether mandatory reporting is the right approach. It is about saying that mandatory reporting should be looked at and arguments should be made one way or another so that a conclusion can be reached for Scotland.

Maurice Corry: I agree. A Scottish consultation would be specific to what a future law might cover. There are anomalies that we have up here that are different from those in England. I think that we need to drive at the fact that it should be country based because whatever happens—whatever is agreed by the UK Government—we still then have to come back to considering the law in Scotland.

The Convener: It feels to me as though we should have the debate and come to a conclusion on whether we agree with mandatory reporting. There are some compelling arguments in both directions. I do not think that the idea that it would be duplication makes much sense. The logic of that is that we would not do anything on anything that a UK Government might consult on.

I think that there are two separate things. The arguments are really interesting around how mandatory reporting might inhibit a young person from disclosing. On the other hand, there is the view that there should be mandatory reporting because of cases where hierarchies within systems moved the problem on rather than confronting it, even though child abuse was reported to them. Sarah Nelson's submission talks about the culpability of people at the top of an organisation who do not listen when child abuse is reported. If there are abusers operating within a system, it is in their interests for an investigation to be closed down.

I think that the petition is in some part trying to deal with that. It is saying that if someone does not report child abuse, there is an issue and maybe one of the reasons why people are not reporting is because they are party to the abuse. That is a difficult thing to deal with but I think that it is part of the issue.

How should we take the petition forward?

Rona Mackay: We should write to the Minister for Childcare and Early Years and ask him where we are with the timeframe and what steps he or our Government plan to take regarding the matter.

The Convener: Would it be reasonable to say that we do not accept the point about waiting for the UK consultation because it is not a UK consultation, it is a consultation by the UK

Government that only covers part of the United Kingdom?

Would it be reasonable for us to highlight the following points? We do not accept the argument for not consulting. We accept that there is clearly a very challenging debate on the consequences of mandatory reporting, and we are not taking a view on that, but we think that the matter should be decided in the context of the child protection system in Scotland. It is legitimate for the petitioner to argue the case, and the Scottish Government should deal with that aspect.

Angus MacDonald: Those points are fair, and should be included.

The Convener: We will write to the Scottish Government to say that we recognise that there is a debate on mandatory reporting, which includes the benefits and consequences that some of the children's organisations have highlighted, but that consideration of the matter should not be determined by the timetable for a consultation that covers the rest of the United Kingdom. From our evidence, it appears that there are plenty of people in Scotland who want to engage in the discussion.

Members indicated agreement.

The Convener: We are grateful for the response that we got from the consultees—

Rona Mackay: Sorry, convener—did we get a response from the Crown Office on how things might proceed?

The Convener: That may be something that it is looking at.

Rona Mackay: I am thinking about whether the requirement is enforceable, and how easy it would be to prosecute in such circumstances.

The Convener: Okay—that is very useful.

Criminal Injuries Compensation Scheme (PE1612)

The Convener: The next petition is PE1612, by Graham McKinlay, on a change to the criminal injuries compensation scheme's same-roof rule. We last considered the petition at our meeting on 2 February, when we agreed to seek from the Scottish Government more information on why it has no plans to establish a separate compensation scheme, and to invite the Government to respond to the written views from Victim Support Scotland, which considered that the process of claiming for compensation for a criminal injury should be the same for all victims in order to avoid discriminatory practices of any kind.

We have received a response from the Minister for Community Safety and Legal Affairs, which

refers to a recent judicial review of the same-roof rule. The outer house of the Court of Session upheld the rule as being

“proportionate and within the legitimate exercise of the discretion accorded to Parliament”.

The minister notes that it would be for the UK Government to amend the current scheme. The minister states the Scottish Government's commitment to ensuring that the individual needs of all survivors are met through integrated services at local level, and she identifies a range of factors that explain why the Scottish Government is not pursuing its own separate compensation scheme. Those include uncertainty about likely demand, the range of circumstances that could be covered and the additional administrative costs that would be associated with setting up application, investigation and assessment processes.

The minister refers to other strategies and frameworks, including the equally safe strategy and the “SurvivorScotland: Strategic Outcomes and Priorities 2015-17” framework, which are designed to ensure that survivors have equal access to the resources and support that are required. She adds that the Limitation (Childhood Abuse) (Scotland) Bill will remove the three-year time-bar barrier for all survivors to whom it applies.

Members will know that stage 3 proceedings on that bill are scheduled for next Thursday. The petitioner indicates that he is pleased that the matters that he raises in his petition have been taken into consideration. He notes that there is no timescale for changes to be implemented and refers to the adage about closing the stable door after the horse has bolted. However, he indicates that he feels that things are moving in the right direction, and expresses his hope that the bill

“may ensure that steps are taken ... to do more to prevent abuse taking place thus negating the need for compensation”.

Do members have any comments or suggestions?

Brian Whittle: The only point that strikes me is the uncertainty around the number of people whom the legislation might affect. I do not see how that is relevant. We should not make legislation on the basis of the number of people whom it might affect.

The Convener: I absolutely agree with that view: I do not feel that the argument about numbers is strong. There are means by which that issue could be worked out. It does not make sense that a person who was entitled to compensation would not qualify on the basis that 10 other people might get beaten up that month.

It is encouraging that the petitioner feels that there has been progress and that things have been moved forward a bit. For that reason, the

argument around why there would not be compensation was not terribly strong. The question is whether we can add anything useful at this point, given that, although the abuse inquiry does not have a remit to look at compensation, things will certainly come out of it that will mean that that has to be revisited.

Brian Whittle: All that having been said, I am struggling to find something that we can do to take the petition any further forward.

Angus MacDonald: I agree that the petition has run its course, but it has to be stressed that it is a prime example of how pressure can be put on the Scottish Government via this committee, which clearly has an effect. It is encouraging that the petitioner has welcomed the fact that the matters raised have been taken into consideration and that they may be addressed in the near future. The petition has gone as far as the committee can take it, and it should be closed.

Members indicated agreement.

The Convener: We agree that the petition should be closed. We acknowledge that the petitioner says that things are moving in the right direction and that progress has been made, which is in no small part due to the petitioner's having raised questions that most people probably would not have been aware of. We also recognise that Victim Support Scotland supported the petitioner in acknowledging that there is an issue and that the Limitation (Childhood Abuse) (Scotland) Bill is a vehicle through which much of it can be addressed. If aspects of his concerns remain, the petitioner is afforded the opportunity to petition on them in the future. We recognise that the petition has informed and shaped much of the debate, which has been helpful.

In that case, if members agree, we will close the petition on the basis that there has been an explanation for the rationale, although we are not concerned about the numbers—we do not think that the number who will be affected by the bill is relevant—and progress has been made in the bill.

Members indicated agreement.

The Convener: We also encourage the petitioner to follow the bill's progress towards royal assent and implementation, and to see how it addresses over time the issue that is raised in his petition. As we have said, if the petitioner believes that sufficient progress is not forthcoming, he may be able to submit a petition in the same, or similar, terms in a year.

Pathological Demand Avoidance Syndrome (PE1625)

The Convener: The next petition is PE1625, by Patricia Hewitt and Mary Black, on wider

awareness, acceptance and recognition of pathological demand avoidance syndrome.

During our previous consideration, we agreed to write to the Convention of Scottish Local Authorities and integration joint boards to establish what approaches are used on the issue, and to identify what support mechanisms and resources are in place. We received four responses. COSLA did not respond because it considers the matter to be for individual local authorities.

The submissions from North Ayrshire and NHS Western Isles health and social care partnerships note that PDAS is not a recognised condition in the manuals that are considered to be the gold standard for autism diagnosis. North Ayrshire and Falkirk health and social care partnerships suggest that there needs to be more research before a decision can be made as to whether PDAS should be recognised as a stand-alone diagnosis. That is a view that the petitioners support and that they suggest was part of the motivation behind the petition. East Ayrshire health and social care partnership states that social work services recognise PDAS as a "developmental disorder", and adds that in order to have a PDAS diagnosis, there must first have been an autism spectrum disorder diagnosis. From the submissions that have been received, it appears that although various explanations and phrases may be used, PDAS is not officially recognised.

However, the responses seem to be fairly consistent in their theme of ensuring that whatever support and resources are provided be based on putting the child or young person at the centre of that support, and on working collaboratively. What is not clear is whether that is based on guidance, best practice or different teams or specialists using their initiative and speaking to and consulting colleagues.

In their submission, the petitioners agree that it is "entirely right" for the support and resources to be centred on the individual, but say that there is still work to do to clarify and expand on current understanding. They suggest that there may be benefit in the Scottish Government investigating whether there are examples of best practice elsewhere.

Do members have any comments or suggestions?

09:15

Brian Whittle: I am still struck by the fact that there seems to be a huge variation in how the condition is treated in different local authorities. I am struggling to understand why there has not been some sort of research into the condition.

I like the idea of writing to the Government to see whether there are examples of best practice elsewhere in the world. If there is huge variation—if the condition's existence is accepted in some places but not accepted elsewhere—it seems to me that that needs to be clarified.

The Convener: I wonder whether the variation is not so much in recognition of the condition but in recognition that there is not just one approach to autism and that autism will reveal itself in people in different ways, so the responses to autism and ways in which people with autism are supported should vary, as well. My recollection of their evidence is that the petitioners argued that some strategies that are used for people with autism are counterproductive for their young people, because they do not fit.

The case has not clearly been made that pathological demand avoidance syndrome exists as a separate condition, but if it is being treated as autism, the needs of the people who have it should be recognised.

Rona Mackay: I agree with Brian Whittle. It is worth writing to the Government to ask it whether it will look at policies elsewhere and see whether it plans to look at how there could be more consistency in the diagnosis and support that local authorities provide. It is worth another stab. We have almost come to the end of the road with the petition, because there has been quite an emphatic response, but I think that it is worth our while to write another letter.

Maurice Corry: I agree. We should get responses from more of the integration joint boards—we have had only four. I declare an interest in that I have been a chair of an IJB. IJBs are now beginning to function properly after a year.

There are another 27 IJBs, and from the four responses that we have had we cannot identify a distinct direction of travel. The fact that IJBs are working with healthcare and social care together may give them some clues.

The Convener: It seems to me that, if you are sitting on an IJB and the gold standard of autism diagnosis is that it is not a distinct condition, that is what you will follow. It is reasonable to ask whether any of the other IJBs have a view, but we should ask what the Scottish Government is going to do. Can it identify research on what happens in other parts of the world? Within treatment of autism, are there specific strategies for people whose families deem them to have PDAS?

Maurice Corry: We need a dual approach.

The Convener: Do members agree to seek comments from IJBs and to write to the Scottish Government?

Members indicated agreement.

The Convener: I am not quite sure why the issue is nothing to do with COSLA. I do not know how it decides whether something is a matter for individual councils or a matter for its general policy.

Brian Whittle: I would have thought that COSLA would at least have an opinion.

Maurice Corry: As I said, the IJBs were formed over the past year, and I know from having attended some of the COSLA conferences on the issue that COSLA was waiting for a sort of bottom-up approach.

The Convener: As Rona Mackay said, it is something that we can at least have one last look at. It is clear from the families' evidence that it is a big issue in terms of the nature and benefit of the support that their young people might receive.

Private Criminal Prosecutions (PE1633)

The Convener: The next petition is PE1633, by Bill Alexander, on private criminal prosecutions. We have received a number of submissions since last we considered the petition.

The Crown Office and Procurator Fiscal Service and the Scottish Government take the view that an individual can petition the court even when the Lord Advocate does not concur. In that regard, the court may direct the Lord Advocate to give his concurrence, or to authorise the private party to proceed without it, by ordering criminal letters to be issued. The Scottish Government concurs with that view and advises that it has no plans to amend the existing legal framework.

The petitioner expresses concern that the cost of challenging the Lord Advocate may be prohibitive for some people. Mr Alexander also considers that there is a potential gap in respect of prosecutions on health and safety matters in Scotland, particularly in the racing industry, which he considers could be addressed by the action that is called for in his petition.

Do members have any comments or suggestions? There is an issue about how the Health and Safety Executive operates in Scotland. I know that it has a Scottish committee, but its submission says:

"Given HSE is not a prosecuting authority in Scotland we have no comment to make."

The petitioner is trying to address the gap, because if something happens who provides the report? The petitioner considers that the fall-back position should be to pursue the matter as a private prosecution, without first having to get past the Lord Advocate. However, we are getting other

advice that the Lord Advocate's agreement is not needed.

Brian Whittle: I was inclined towards closing the petition until health and safety issues were mentioned. As you said, when we look into that issue, there seems to be a grey area or gap that needs to be explored. I am not sure what we should do with the petition.

The Convener: If the Health and Safety Executive is a prosecuting authority in the rest of the United Kingdom, who fills that gap in Scotland? Maybe this is a gap in our understanding, rather than a gap in respect of the work being done. I know that concerns have been expressed that, for example, the fatality level in Scotland's construction industry is higher than it is in the rest of the United Kingdom, and there is a sense that the Health and Safety Executive does not seem to be alive to that at the local level. Perhaps that is an issue that we should address before we consider closing the petition.

Maurice Corry: We should ask the Scottish Government what the position is. We should certainly not close the petition; we should raise the matter with the Government.

Angus MacDonald: We should get further clarification. The HSE's response was:

"Given HSE is not a prosecuting authority in Scotland we have no comment to make."

That is disappointing, to say the least.

The petitioner's view that the Lord Advocate can direct Police Scotland to carry out an investigation but has no powers to direct the HSE to carry out an investigation because it is a reserved body.

Rona Mackay: The only route to take is civil action.

Angus MacDonald: As I say, we need clarification.

The Convener: We need to look at it from both directions.

Brian Whittle: It is a fairly live issue in other constituency work that I have been doing, so I would like further clarification.

The Convener: We are agreeing to ask for comments on the issue from the Scottish Government, the Crown Office and the Health and Safety Executive. I know that the HSE has a Scottish committee, but I do not know how it operates. Perhaps we could write to it directly and ask it what that committee's role is. As Angus MacDonald said, the Lord Advocate can ask for an investigation to be carried out, but he cannot direct the Health and Safety Executive to do that.

Angus MacDonald: That is strange.

The Convener: There is still a wee bit to go on this petition in order to address the petitioner's concerns.

Single-use Drinks Cups (PE1636)

The Convener: The next petition is PE1636, by Michael Traill, which suggests that all single-use drinks cups be 100 per cent biodegradable.

We initially considered the petition on 30 March. We have received seven submissions from stakeholders including the Scottish Government, COSLA and a range of organisations that are actively engaged in developing initiatives in this area.

The submissions are generally supportive of the motivation behind the petition, but pose some questions about how effective the suggested action might be. Points are made about the distinction to be drawn between biodegradable and compostable cups. There are also issues about the existing recycling and waste management infrastructure, the composition of disposable cups and food packaging, public attitudes and consumer incentives. The submissions go into technical detail about the various processes and possible alternatives to that which is suggested in the petition.

Members will be aware that the Environment, Climate Change and Land Reform Committee has recently announced its plans to examine waste generation and disposal. Do members have any comments or suggestions?

Angus MacDonald: Given that the Environment, Climate Change and Land Reform Committee is due to look at the issue in some detail, it would probably be a good time to refer the petition direct to it. However, I note the suggestion to ask the Scottish Government whether it has any plans for a public awareness campaign on the issue. Perhaps, as the Public Petitions Committee, we should do that in advance of forwarding the petition to the ECCLR Committee.

The Convener: It would be good to move forward on the petition. Before we refer it on to the ECCLR Committee, would it be reasonable to write to the Scottish Government? We could then share the information on any plans for a public awareness campaign or any other information that the Scottish Government gives us.

There are interesting issues in the petition. On the one hand, the issue seems to be simple—everyone knows that single-use cups are a problem. On the other hand, the matter is more complicated than that because of the technicalities of solving the problem.

Any action that would encourage businesses to provide less complex packaging would be a boon.

Rona Mackay: We should also encourage packaging that would be less damaging to the environment.

Maurice Corry: Absolutely.

Brian Whittle: I agree that the petition raises a lot of interesting matters. I especially like the idea of a public awareness campaign. I had not considered the issue of single-use cups until I saw the petition. Like many such things, until they are brought to our attention, we do not think about them.

The Convener: Maybe this is just me being ignorant and old, but I thought that paper cups were disposable, and that because they were disposable they were biodegradable and environmentally friendly. Some of the evidence has suggested the opposite to be the case.

Maurice Corry: That is right. I saw a programme on ready-made meals. It highlighted that the black plastic trays are a problem because they are not recyclable. Our duty is to have a public awareness campaign that brings together all the issues, because the issue covers not only single-use cups, but bottles and other plastics.

The Convener: If we agree to do so, we will refer the petition to the Environment, Climate Change and Land Reform Committee for consideration as part of its work on Scotland's approach to waste management. We will also write to the Scottish Government to ask whether it has any plans for a public awareness campaign. We will share its response on our website. Do members agree to that approach?

Members *indicated agreement.*

The Convener: I suspend the meeting briefly to allow the witnesses for our next petition to come to the table.

09:28

Meeting suspended.

09:30

On resuming—

Thyroid and Adrenal Testing and Treatment (PE1463)

The Convener: The next continued petition is PE1463, by Sandra Whyte, Marian Dyer and Lorraine Cleaver, on effective thyroid and adrenal testing, diagnosis and treatment. We are joined by the lead petitioner, Lorraine Cleaver, and by Dr John Midgley. We are also joined by Elaine Smith, who has an interest in the petition. I welcome you all to the meeting.

Brian Whittle: We are missing Maurice Corry.

The Convener: Ah well—we will get started.

We have a full agenda today so I ask members and witnesses to keep their comments succinct. Members will be aware that a lot of information from a range of stakeholders has been gathered on the petition since it was launched in 2012. We intend to have a focused discussion.

I will allow five minutes for Lorraine Cleaver or Dr Midgley to make an opening statement.

John Midgley: Good morning. I will start with a bit of history. Nearly 50 years ago, my wife was a technician in Newcastle University's department of medicine during the time of Professor Reginald Hall, who was an authority on thyroid function, test development and diagnosis. She ran the test for thyroid stimulating hormone—the first to be developed in this country—and, after a while, she began to feel ill. The professor said that, as she was doing the tests, it was just suggestion. However, when she put her serum sample into a test run, lo and behold, her thyroid stimulating hormone level was up in the sky. She was suffering from Hashimoto's thyroiditis, which ultimately destroyed her thyroid.

I was a lecturer in Newcastle University on an altogether different subject but, naturally, I became interested in the thyroid, how it worked and how it was treated. By a series of coincidences, I got into the position of being able to invent the thyroid function test for free thyroxine and free triiodothyronine that is now used worldwide.

In the 40 years since the late 1970s, I have taken an interest in the development of the testing, treatment and diagnosis of thyroid patients and I have become increasingly unhappy about the way in which testing has proceeded. It is unfortunate that the test for thyroid stimulating hormone that I mentioned is now overreaching. It is supposed to be successful in diagnosing the onset of disease through testing for thyroid underfunction or overfunction—for which it is perfectly suitable—as well as for the control of treatment, for which it is totally unsuitable. Extending its use to a function for which it is unsuitable has led to a significant number of patients being wrongly diagnosed, wrongly treated or not treated at all.

I have written down some general statements because, at my age, I sometimes lose my memory. I hope to convince you that the current paradigm of thyroid deficiency treatment is insufficient and is wasteful of medical time and resource, and that the wrong tests are being administered to control treatment. The approach commits the sin of categorisation. By that, I mean that the diagnosis and treatment are aimed at putting people into the normal range, which is a wide range, and individuals each have their own positions in it. Looking at all the people here today,

it would be fair to say that there will be somebody who is very much different from the average, and it is not sufficient just to put someone in the range; you have got to put them in the range in the position where their optimum health is to be found. Since you do not know what that value was when they were well—because it was never measured—there is a lot of flailing about going on to find out what the best solution is. That is what I mean by the sin of categorisation. It is shoehorning people into the normal range and saying, “That’s okay—job done.” That is wrong.

The next problem is the promotion of biochemical markers for the measurement of thyroid hormones in blood over patient presentation. At the moment, the chemistry dominates the presentation of symptoms by the patient. That is the wrong way round. The presentation of symptoms by the patient should dominate over biochemical parameters, which should be suggestions and indicators but not dictators of the situation. That is very important.

All that has been to the detriment of the health, wellbeing and economic activity of mainly female patients, as 80 to 90 per cent of thyroid sufferers are female. We males are a little less aware of the situation than women are in that respect, because at least 2 per cent of women have thyroid problems, which is quite a significant number given the population.

In short, I believe that there should be an unbiased review of present protocols for treatment and diagnosis in the light of new evidence that shows that the single use of thyroid stimulating hormone as a test for thyroid deficiency and for treatment is unsuitable and misleading.

The Convener: Thank you very much.

As you will be aware, the Scottish Government agreed to conduct a listening exercise, and in doing so commissioned Thyroid UK to conduct a patient survey. You expressed disappointment with the manner in which the Scottish Government approached the listening exercise and with its response to the survey. Do you have a view on how the listening exercise could have been conducted differently, and do you have any suggestions in that regard?

John Midgley: Lorraine Cleaver may have some suggestions.

Lorraine Cleaver: My suggestion is the one that was mooted at the committee a few years ago, which is to have an inquiry run by the committee. The listening exercise was an exercise in wasting money, wasting time and achieving zero. I met with a Scottish Government minister shortly after the listening exercise was agreed on, and he discussed setting up a short in-house inquiry with medical people and patients suffering

not only from thyroid disease but from fibromyalgia or ME, and running a long-term project over a year. Nothing happened with that. I know the budget that was set aside for that, but nothing came of it. The Thyroid UK survey was a very small part of the listening exercise; it was not the listening exercise itself. Nothing was done with the findings of the Thyroid UK survey; in fact, I think that they were roundly ignored by the minister who came here.

In more than four and a half years—indeed, almost five years—we have not achieved anything. We have passed things over to the Scottish Government or the Scottish intercollegiate guidelines network, and we have achieved absolutely nothing. The committee has to seriously consider carrying out an inquiry, because otherwise that will be five years of work for nothing.

Angus MacDonald: A key issue that has come to light in the committee’s consideration of the petition relates to the evidence base for patient experience and clinical opinion. Do you consider that there are gaps in the existing research in that area and, if so, what gaps have you identified?

John Midgley: There is a rather stern answer to that. The alleged gaps in knowledge are in fact refusals to acknowledge that there is evidence that flies in the face of current actions. That is because the medical profession is by definition a conservative one and, having diagnosed and treated people in a particular way for 35 years, it does not take kindly to being told that it has been doing the wrong thing all that time.

It will take an enormous amount of pressure to bring the medical profession around to reading and understanding the papers—which I have to say are rather complicated—that show that what has been done over the past 35 years or so is suboptimal and has actually caused harm to patients. That is a very big thing for the medical profession to have to swallow but that is what, one day, it will have to do.

Angus MacDonald: Sooner rather than later, I presume.

John Midgley: Yes.

Brian Whittle: We understand from the Scottish Government’s latest submission that the chief scientist office has a remit to fund clinical research that is led by a Scotland-based clinician or scientist and which has the potential to improve the health and wellbeing of the people of Scotland. Have you approached any Scottish researchers to make a funding application to the chief scientist office to address any gaps in clinical evidence that you have identified?

John Midgley: My great disadvantage is that I am not medically qualified. That means that I can be easily ignored because that can be raised against me immediately. I do not have those connections and nobody from the health service in Scotland has approached me. Indeed, nobody in the world has approached me to talk in any forum about the situation. The invitations on my mantelpiece number zero and look to continue to be zero for the time being.

I believe that it is up to the authorities to debate the situation with me and for me and the appropriate people to have a discussion based on current evidence about how to proceed further.

Rona Mackay: I want to ask about the importance of the doctor-patient relationship in identifying suitable treatment and implementing patient-centred care. Are patients sufficiently supported when they do not agree with the treatment plan that is proposed by their general practitioner or endocrinologist? Do you have any recommendations for what steps NHS Scotland could take to support patients who find themselves in such circumstances?

John Midgley: Gosh, have we got a day? From what I read about people's experiences, my belief is that, in general, GPs are woefully ignorant about how to treat patients who have thyroid dysfunction. GPs seem to have become used to what I call computer thinking—they look into a blue screen where advice is given to them and they simply follow that advice in a rigid and mechanical fashion.

That means that, as I said, the biochemical numbers, which are displayed on that screen from the pathology laboratory, seem to become paramount over the appearance of the person in front of the GP. In my opinion, that is the great error that is being made—the patient is now subordinate to the chemistry, which is not right. It cannot be right, because the chemistry is the guide and not the dictator. However, I cannot lay the fault at the door of the general practitioners, because they only behave in the way that they are instructed to behave.

09:45

I could go on for ages about this. The individual patient is an anecdote—they are in front of the GP and they have their unique parameters, which are within or without the normal range, depending on how they are. That is one thing. The normal ranges for health are obtained statistically. There is a tension between statistics and individuality. The individual is a place within those statistics, but to use the statistics backwards and say that an individual is within a range and is therefore okay, wherever they are, is a complete error.

I am saying that general practitioners are not given the proper method of discriminating the individual from the ranges that they are given within which to place that individual. The individuality is lost, and therefore misjudgments as to the success of the treatment are continually made.

I am afraid that that also applies to endocrinologists, who can be just as guilty of those errors as general practitioners. It is a matter of education, in my opinion.

Rona Mackay: Does that go back to clinical training?

John Midgley: Yes—clinical training has to change very much. There are an awful lot of misapprehensions about how to treat numbers and how to relate them to patient presentation.

Lorraine Cleaver: In the 21st century NHS, medicine is going forwards, but for this patient group we are going backwards. We used to have desiccated pig thyroid, which had everything in it, but we cannot get that now. We are actually going backwards.

I will read you part of a paragraph of a news report about a paper by an American scientist that was published in October last year, because I find it astonishing that this is happening in the 21st century. It states:

"Better medications are needed to treat hypothyroidism, Bianco believes. Until that day, he urges physicians to change how they talk about hypothyroidism with patients. 'Doctors should be telling their patients, 'I'm going to normalize your TSH, but you're going to be at a higher risk for gaining weight, experiencing depression and fatigue. It is also more likely that your cholesterol will go up.' That is what we should be telling our patients."

Most of those patients will end up on statins and antidepressants. Doctors are saying to them, "I'm going to treat your TSH and reduce it until it is in a nice part of the range, but you are going to need statins, beta blockers, antidepressants and gosh knows how many other things." That is outrageous in the 21st century.

They will do that rather than admit that what they are doing is wrong. They are medicating people with one drug that does not suit everyone, and they are medicating them to keep the TSH happy, rather than remove a person's symptoms. It goes back to training and education. John Midgley was correct that it will take decades to unravel. The egos of the people who wrote the papers and decided on the protocols are not going to give up easily.

Elaine Smith (Central Scotland) (Lab): I have a supplementary question on the GP issue.

First, I will put on the record, given what Lorraine Cleaver said, that Dr Anthony Toft, who is

an eminent Scottish endocrinologist, commented on the BBC recently on the cost of T3; maybe we can come on to that. He was asked whether desiccated thyroid hormone was likely to be used instead, and he said:

“I suspect that in time that’s what will happen.”

To me, that is tragic. The people who are not getting it now cannot wait. They will end up on depression medicine, they might be suffering from fibromyalgia and so on. Regarding what Lorraine Cleaver just said, it is horrendous that it is only going to happen “in time”. Many women will suffer in the meantime and many of them will not be economically active as a result of it.

The committee has my own story. Loads of money was spent on testing me for conditions from Lyme disease to Addison’s disease and everything in between and putting me through a brain scan—which must have cost a fortune—heart monitoring and so on. All through that process, I said to every doctor, “I’ve got an underactive thyroid. It’s got something to do with that.” After spending two years and a fortune on this, I finally got to Dr Toft, who tested my T3 and found that I was not converting. I came back to life with a small pill, but it took two years. I was determined—how many women out there are not that determined?

From the paper that I have—I do not have the committee’s private papers—it is clear that there will be no SIGN guidance, so we are back to where we started. The paper says:

“a good practice guide for general practice may be a more useful document”,

and I want to ask Lorraine Cleaver about that. However, I note that the paper also says that the GPs noted that they are

“not in a position to comment on unlicensed medication.”

They are talking about desiccated thyroid hormone, which they used to prescribe 35 years ago—and it was unlicensed then, too. They are not in a position to comment on such medication, but they can prescribe it; indeed, some do, but they do so under the radar, because they see what happened to the late Dr Gordon Skinner, who kept getting hauled up before his professional body even though he had done no harm to his patients and was, in fact, doing them good.

I cannot understand how GPs can say that they are

“not in a position to comment on unlicensed medication”,

and I want John Midgley and Lorraine Cleaver to comment on that. How can GPs say that?

John Midgley: The behaviour of the opinion formers in thyroid medicine is verging on disgraceful. They refuse to allow desiccated

thyroid to be licensed or used in this country for the very strange reason that it does not have the right content of thyroid hormones that are appropriate for treatment. That makes me scratch my head, because if you give patients only thyroxine, which is the normal treatment, that is about as unphysiological a thing as you can do. Indeed, it is far more unphysiological than giving natural desiccated thyroid—as long as the content of that product is regulated and controlled, which I believe it is according to the pharmacopoeias.

There is no real evidence on this and no reason not to be quite liberal in the choice of treatments that can be offered to patients according to their requirements and their responses to the treatments. I cannot see why there should just be narrow tramlines of suggestions and recommendations, given the fact that individual physiology is so widely defined and so widely corrected when wrong. I simply cannot see any logic in this narrow behaviour.

Angus MacDonald: Like Elaine Smith, I cannot quite get my head around the issue of desiccated thyroid hormone, which we know has been available in the past and has worked. For clarification, I note that Lorraine Cleaver said a minute or two ago that it was unavailable, but I believe that we have had evidence that it is available on the internet from abroad. I presume that people are still buying it from there.

Lorraine Cleaver: I buy it from abroad, but I live with the fear that I will not be able to source it one day. It is licensed in America, but I am buying it via some company on the Pacific Ocean, which is ridiculous. The medical community removed my organ and told me, “We’ll put back what we took out”, but they are not doing it. They are leaving me and many thousands of other patients to buy it on the internet.

There is another problem with triiodothyronine—or T3—which I believe is being investigated by the Medicines and Healthcare products Regulatory Agency. The UK has one manufacturer of T3, and it seems to have a monopoly on price, which has gone from £54 for 28 tablets to £154. People’s medication is not supposed to be stopped because of cost, but that is what is happening. Elaine Smith has also been dealing with that.

I can see the position that the NHS is in. T3 costs £300-odd per month for some patients, but it costs one euro per pack in places such as Turkey. We are still in the EU—just about. Why can we not source cheaper T3 from there? Why is there only one manufacturer? Some patients have a tiny glimmer of hope that they can access T3 eventually, if their doctor prescribes it, but they are under constant threat of having it removed and that is happening.

Angus MacDonald: Is the desiccated thyroid hormone available abroad at a reasonable price?

Lorraine Cleaver: The price has increased somewhat, but it works out at about £50 per month for me, which is still cheaper than the T3 that the NHS is getting stitched up over. I do not grumble about paying that, and that is how most patients feel. They do not have a problem about paying for it, but they have a fear about accessing it.

Angus MacDonald: Okay. Thank you.

The Convener: I am conscious of the time. There are a lot of other questions that we could ask, but perhaps we could do so in writing. There is a very complicated set of issues involved, but I do not want to lose sight of the fact that we are right up against the clock. We could say that the question of licensing is not within the remit of the Parliament and is a question for elsewhere.

Do members have final questions that they want to ask?

Brian Whittle: I have a comment. Through my work on this committee, I found out that a male friend of mine has this issue and was having real problems with thyroxine—or T4—until the consultant endocrinologist prescribed T3. My friend says that the combination of the two has made a huge impact on his life. I know that that is anecdotal evidence, but I spoke to his consultant, who told me that half of the consultants believe one point of view and the other half believe the other, which is really unhelpful. Proper clinical research has still not been achieved. I do not know what the answer is, but somehow or other that circle has to be closed.

The Convener: We should certainly flag up the research issue to the Scottish Government. It feels as though there is an awful lot more to be established around licensing, which is not within the committee's power. However, we are also interested in people's concern about the way in which they have been treated.

Maurice Corry: Does Dr Midgley think that clinicians have clear guidance on when to use different types of diagnostic tests?

John Midgley: No; I do not think that they are given guidance at all, at GP level. The dogma is always, "Take the thyroxine and normalise your TSH. Thank you, madam or sir. Go away; you are properly treated." That is the end of it. If a patient feels ill, that is put down to something else, such as their being depressed or having a cold, but not to their having a thyroid problem. I am afraid that the ignorance on that is quite astounding.

One thing that I want to run over quickly is that the instruments that are used to measure the thyroid hormones from different manufacturers do not give the same answers. Therefore there is

extra confusion, in which the normal range from one manufacturer can be up to 50 per cent different from the normal range from another. The confusion can be astounding and, in the case of T3, it is awful. The standard of measurement is as bad as the standard of diagnosis. How we get on, I do not know.

Elaine Smith: Licensing is a slight red herring, because GPs can prescribe desiccated thyroid hormone if they want to. When T3 ran out a few years ago, when the committee was dealing with the issue, GPs could not get it and were then told to get it from abroad, from wherever they could. Licensing aside, GPs could still get it, but they are frightened to prescribe it because they are being hauled in front of their professional bodies for doing so.

The Convener: As I said, there may be points that we want to pursue at a later stage, but I am conscious of time this morning. I thank the witnesses for their attendance.

We want to produce a revised draft report. We should reflect on the evidence that we have heard today and any follow-up questions that we may have before we complete that report. Is there anything else that members think we should do?

10:00

Rona Mackay: This is such a big issue and it is a shame that we have had to round off our discussion. I do not expect the witnesses to answer this, as we have run out of time, but I would be interested to know what their priority would be to improve the situation. I know that there is a list of things—perhaps they could be explored in a letter.

Lorraine Cleaver: We should roll back everything—all the problems that we have about the tests and the medicine being inadequate—and go right back to the source of the guidance that is handed out to GPs, which is why we are in this position. The guidelines were written based on consensus, and that consensus medicine is not science. We should go back to the source and ask why it is acceptable for guidance on such a common illness to be based on consensus rather than on good-quality evidence. We are firefighting and the problem is way back at the source.

Brian Whittle: I am reading that the guidance is from the National Institute for Health and Care Excellence, but surely the Scottish Medical Council has jurisdiction here, not NICE.

The Convener: That can be clarified. I think that we are dealing with SIGN guidance, but we can get that clarified.

Elaine Smith: Given that all this time has passed and we are back at stage 1 on the

guidance, and given that, as it says in the committee's papers, GPs will not take on board good practice guidance, is there no possibility that the committee could hold an inquiry into the issue? All that happened in the beginning was a round table, which provided more questions than answers, and the petitioner has been before the committee a few times. However, this is a new committee and only one member has experience of the stories that were put together in a hurry. Is there any time in your timetable for an inquiry?

The Convener: Obviously we have reflected on our business programme for next year, as all committees do. I am keen to finish our revised draft report, and we can draw conclusions from that. Although not all committee members were on the predecessor committee, we have read and reflected on the evidence. We have to balance the interests of the petition with all the other pressures that we are under. You can rest assured that we will at least be looking at it.

I thank the witnesses again for their attendance.

10:02

Meeting suspended.

10:04

On resuming—

New Petition

Business Rates (Nurseries) (PE1648)

The Convener: The next item on the agenda is a new petition: PE1648, by Stephanie Dodds, on nursery business rates. We are joined by Stephanie Dodds and Claire Schofield, who is director of membership, policy and communications for the National Day Nurseries Association. I welcome you both to the meeting and invite Stephanie to make a short opening statement of up to five minutes, after which we will move to questions from the committee.

Stephanie Dodds: Good morning, convener, and members of the committee. As you are aware, a key issue for private nurseries is balancing the books, so that they can deliver high-quality childcare while remaining sustainable and keeping fees affordable for parents.

Business rate rises have placed a huge burden on nurseries, which are already facing severe financial pressure from increasing payroll costs associated with the national living wage, pension auto-enrolment and the uncertainties about the provision of 1,140 hours of free early learning and childcare.

Many private nurseries are experiencing financial crises as a result of the recent business rates revaluation. Coupled with the chronic funding shortfalls experienced by private nurseries regarding the current 600 hours and the free provision for eligible two, three and four-year-olds, urgent reform is needed to ensure the sustainability of the sector.

A 2017 NDNA survey identified an average shortfall in the local authority funding rate for private nurseries of about £1,000 a child a year. Nurseries were also asked—again, in 2017—what they will do. They are having to increase their fees substantially to try to offset that shortfall.

The Government's "A Blueprint for 2020: The Expansion of Early Learning and Childcare in Scotland" talks about private nurseries giving the Scottish living wage, which is another increase they are facing. It will lead to higher payroll increases, which will lead to private nurseries asking whether they want to be in partnership with the local authorities to deliver the 1,140 hours. At a time when the Scottish Government wants us to be at the forefront of early years education, giving the best and providing increased hours for children, we in the private sector are there and able to deliver those hours in the many high-quality private nurseries, so it is such a shame that

more and more financial constraints are being put on us, making it difficult for businesses to run.

Following the business relief rate changes, we have been revalued. Most private nurseries are above the new rate. Therefore, if, for example, there are two nurseries under a group, they would not qualify for relief, so that support has been wiped out.

The highest rate increase has been 215 per cent for one nursery in Renfrewshire. A poll by Lambert Smith Hampton found that there were not that many increases in Glasgow—the costs stayed roughly the same as in 2010. However, in Dundee, there were quite big increases, some of which were up to 50 per cent. In Aberdeen, the increases were mostly 50 per cent, but some were as high as 178 per cent. In Edinburgh, the increases were generally more than 70 per cent, with the highest being 147 per cent.

I am the NDNA chair for East and Midlothian, which is a voluntary position. I went out to different members asking for case studies on how their businesses are being affected. A nursery in Paisley, which is not in our area, was, prior to 2017, valued at £16,500 a year, which allowed it to receive relief, so it did well. Unfortunately, the nursery was revalued at £40,000 a year. Therefore, instead of having to pay £588 a month, it has to pay £1,800.87. That is a huge increase for a small business to cope with.

It has just come to light that, on top of the business rates going up, the property drainage and water rates have increased. That nursery is now having to pay those extra costs, too, which is taking the costs up to about £14,000 a year more than it had previously paid. That is the cost of a member of staff in a nursery who is working about 30 hours a week. That is where we are at.

A new nursery that has just opened in West Lothian is paying £50,000 in business rates while the dentist next door is paying £30,000. When the owner inquired as to why that was happening and what the rateable values were based on, she was told that there are four rates for nurseries. A nursery that is not well maintained and whose building is not great will be on the lowest rate. A nursery that is a conversion might be on one of the middle two rates. Someone who has invested in an all-singing, all-dancing, purpose-built nursery—it might be that they do not have a lot of money, but they have invested in it—is being penalised for that and is paying the highest rate.

Nurseries in lovely purpose-built buildings that give children the best care, which is ultimately what this is all about, are being penalised. They will not get any relief because they are above a certain level. That is frustrating people. It seems that people with poor buildings are getting relief

and people who are investing are getting none. That is unfair.

The business rates for our nursery in Haddington in East Lothian have gone up by 100 per cent and the business rates for our nursery in Dunblane have gone up by 50 per cent, so the average increase between the two is 75 per cent.

The Convener: Thank you. How many private nurseries are operating in Scotland? Do you have an estimate of the number that are likely to be affected by the revaluation?

Claire Schofield (National Day Nurseries Association): There are about 800 private nurseries in Scotland. We have consulted our members. Unfortunately, we did our survey at the time of the revaluation, but the message that has come through from our annual survey is that the revaluation has made the position worse for the majority of nurseries. There have been some very big increases, and most nurseries have been unable to get any relief because their valuations are too high. As Stephanie Dodds said, we are looking at expanding to 1,140 hours, but the need to pass the cost pressure on to parents is going to make it that much harder for nurseries to get involved in that provision and remain viable.

Rona Mackay: Good morning. On that point, you will be aware that local authorities have been funded to provide the 1,140 hours, so hopefully that will—

Claire Schofield: I think the point is that nurseries do not yet know what settlement they will get, or that will be passed on to them.

Rona Mackay: Yes—that is on-going.

Stephanie, you mentioned in your opening statement that the business rates increase may end up affecting the parents. Have you done any research to find out how many parents might not be able to afford an increase?

Stephanie Dodds: I have not done any research, but you can see from the comments on the petition the number of parents who would struggle. They are already talking about a detrimental effect on their ability to put their children into childcare.

Nurseries are not like other businesses. We cannot say, “If we bring in more children, that will help with the shortfall”, because we have constraints. We can only have so many children per area of floor space. People might say, “You could think about cutting down on staff”, but we cannot do that because we need a certain staffing ratio and we want to have high-quality staff. We do not want the children not to have the benefit of that. The only approach is for nurseries to pass some of the cost on to parents and maybe try to

absorb some of it themselves, if they can. Some businesses will just close.

Claire Schofield: The parents who will be hit the most are those with the youngest children, who are at the stage of trying to return to work but are not getting the 1,140 hours because that starts with eligible two and three-year-olds. That is where parents face the heaviest costs, and if nurseries have to put their fees up, they will be hit the most by those increases.

Rona Mackay: I know it is hard for you to say, but how many of your parents might be unable to continue with childcare? Can you put a rough percentage on it?

Stephanie Dodds: I really do not think that I can. I would need to go out and ask, but I imagine that most of them would come back and say that. In the comments on the petition, some of them say, "I don't know why I'm working just now. Nearly all my salary goes on childcare." We just keep on thinking it is okay because it is only for a few years, but we already have bad debtors who are clearly struggling to pay their fees. We try to give them a little more time and put in place things such as payment plans, but people are definitely struggling.

Rona Mackay: Okay. Thank you.

10:15

Angus MacDonald: Good morning. As you are probably aware, the Community Empowerment (Scotland) Act 2015 allows local authorities to grant relief to any type of ratepayer for any reason, as they see fit, provided that it is fully funded by the local authority. You have already mentioned building quality being considered as a possible factor for relief by a particular local authority. I am not quite sure which authority you were talking about, but are you aware of any moves by local authorities to use the power given to them through the 2015 act to grant relief with regard to nurseries?

Stephanie Dodds: I have not heard of anyone who has been able to get that relief. The person in the first case that I mentioned was told no when he asked.

Angus MacDonald: Where did that happen?

Stephanie Dodds: That was in Paisley, which would be Renfrewshire.

Angus MacDonald: You said that you were in Dunblane.

Stephanie Dodds: I have a nursery in Dunblane and another in Haddington. I have sent in letters in Haddington, asking for some form of relief, but I have had no response as yet.

Angus MacDonald: What about Stirling Council?

Stephanie Dodds: I have not done that yet.

Claire Schofield: On a national basis, we have been encouraging our members to look at all the options with regard to contacting their local authorities and getting reliefs, and no one has told us that they have received any relief. We could look further at that.

Angus MacDonald: Thanks.

Maurice Corry: We understand that a number of types of businesses, including bed and breakfasts and pubs, have been afforded transitional relief. Are you aware of any specific reasons why nurseries were not afforded this relief?

Stephanie Dodds: No.

Maurice Corry: No reason has been given.

Stephanie Dodds: None.

Maurice Corry: Thank you.

The Convener: I am looking to see whether members have any final questions, because I am conscious of the time. I think that you have made a very strong case with regard to the issues facing nurseries and the importance of childcare to the Government's strategy and our own commitments. We received a briefing about the list of businesses that got transitional relief, which included pubs and bed-and-breakfasts but not nurseries. Interestingly, it could act as something of a perverse incentive to you not to improve your properties.

My final point is that there is nowhere for you to go. The margins in your business are such that you cannot address ratio, increase the number of young people and so on.

Without coming to a conclusion about what we think should happen, I sense that the committee wants to explore the petition a bit further. I suggest that we write to the Scottish Government, COSLA and other childcare organisations that might have members who are aware of the concerns you have been highlighting. Do members have any comments to make?

Brian Whittle: I know through constituency work that the cost of introducing the living wage—which we will all agree with—and the increase in business rates are not necessarily reimbursed at the appropriate level by councils. It is certainly an issue that we need to explore and a loophole that we need to close.

Maurice Corry: I entirely agree.

The Convener: Is there anyone else we can write to? I would be interested in hearing from

parenting organisations about the margins at which it is still worth your while working. After all, you are paying out against potential future earnings that, if you stay in work, you will be able to get back later on. However, given the nature of your business, I find it very difficult to see how else you can recoup the costs, and we need to find out whether people are looking at transitional arrangements.

Maurice Corry: We will need to see the response from COSLA. If we do not get a suitable response from it, we will have to go directly to the local authorities—which of course brings us back to the point that the ladies were making.

The Convener: Or we just go directly to the local authorities right now.

Maurice Corry: I agree. That would be the most straightforward approach.

The Convener: If there are other organisations that might have an interest in this area and which we think it worth contacting, we can do so. Perhaps we can leave that to the clerks.

The petitioners have certainly posed a lot of questions. Revaluation is never easy, and I suppose that there are always winners and losers, but the issue is what it means for a pretty core element of the commitment that we all have to people who are in work and the importance of high-quality childcare. We will want to look at all of those questions.

I thank the petitioners for their attendance. We will come back to you once we have received responses to our questions.

I suspend the meeting briefly.

10:20

Meeting suspended.

10:22

On resuming—

Continued Petition

Youth Football (PE1319)

The Convener: The final item is consideration of PE1319, on improving youth football in Scotland. We are joined this morning by Neil Doncaster, Scottish Professional Football League; and by Andrew McKinlay and Stewart Regan, Scottish Football Association. We are also joined by James Dornan MSP. Welcome to the committee and thank you for attending.

As I am keen to make the most of our time, we will go straight to questions. We have, of course, copies of written submissions from the witnesses and others to inform our questions. At the outset, I say that I am keen to use this morning's session to assist our progress on the petition, and I remind members that we will debate the petition in the chamber at a future date.

I must also apologise and tell everyone that we are right up against time. We are not able to sit later than 20 to 12, so no matter where we are by then, we will have to stop. A power beyond me has made that determination, but I am sure that we will be able to use this morning's time productively.

First of all, you have indicated the changes that you will make to remind clubs of their obligation to pay the minimum wage. What sanctions could clubs face if they fail to do so?

Neil Doncaster (Scottish Professional Football League): Sanctions are very much a matter for Her Majesty's Revenue and Customs. There is a body of football rules that we and the Scottish FA are responsible for administering and ensuring that clubs adhere to. However, there is also a body of law that applies to all businesses in Scotland and the UK. There are various agencies that are responsible for ensuring compliance with that law, and compliance with the national minimum wage is an issue that HMRC has primacy over and will deal with. Therefore, any sanctions would be very much at HMRC's behest.

The Convener: But there is nothing in your rules that makes clear your expectation that the clubs in your organisation must comply with the law.

Neil Doncaster: No—on the contrary, we expect that all our clubs will comply with the law, but it is a matter for the various Government agencies that have primacy in ensuring compliance with the law to investigate and sanction clubs for any apparent breaches.

The Convener: So it would be acceptable to you to have in your organisation clubs that do not comply with the law, as it is for somebody else to deal with that. From your point of view, there would be no sanction on a club for not complying with the law.

Neil Doncaster: I do not know why you would suggest that. There may well be a sanction, but it would be imposed by HMRC.

The Convener: I am trying to establish whether, if a club was identified as not paying the minimum wage, you would do anything to deal with the matter. You would not say to the club, "This is unacceptable."

Neil Doncaster: That is not the case at all. We have a role in adjudicating on all our player contracts where we are asked to adjudicate, and we do that. Where there is a dispute between a club and a player over that player's contract, we have a role in adjudicating and, if appropriate, ensuring that there is proper payment by the club. Our role is to ensure that players get what they are entitled to under their contract, not to punish under the law, which is clearly, if appropriate, the responsibility of HMRC.

The Convener: I understand that people pursue individual cases. We will explore the matter further. I suspect that, by the very nature of your business, young people are less likely to complain—

Neil Doncaster: We get requests for adjudication, and we deal with those.

The Convener: I do not dispute that. I am simply saying that, in a culture in which—as was accepted earlier—it is less likely that people will complain and in which young people may be willing to be exploited, there is a job for professional bodies to do to ensure that those young people are not exploited, even when they might collude in their own exploitation.

I understand that you would support somebody where they made a complaint. However, I wonder whether you recognise that you have a role in addressing the issue of clubs routinely not paying the minimum wage, even where nobody complains about it, and in finding a way to encourage good behaviour.

Neil Doncaster: We encourage good behaviour—that is absolutely the SPFL's role in this area. We recently invited all professional clubs in Scotland to attend a seminar in which we walked them through the law and discussed how they could ensure compliance. Clubs are keen to comply with the law, as you would expect. There are isolated instances in which that does not happen. Where such instances are brought to our

attention, we investigate. Where we are asked to adjudicate on a contract, we do so.

Recently, we received allegations about three of our clubs—Queens Park FC, Dundee FC and Stirling Albion FC—that involved a failure to pay the national minimum wage. We investigated in each of those cases. In the case of Stirling Albion, we understand that full payment has been made, with the help of the Professional Footballers Association Scotland, to the one player for whom there was not compliance. In the case of Dundee, we understand that the club itself instigated a review of its player contracts and has rectified all the instances of default.

Queens Park FC is in a somewhat different position. It is the only amateur club in the 42-club SPFL, and it is fair to say that the standard player contracts that we use give it some issues as an amateur club. We are working with the club to ensure that, where it has been using the contracts incorrectly, it will be fully compliant from this summer. We are also working on a new player contract that is designed specifically for part-time players, which will make it easier for clubs to ensure that they comply with the law in this area. We are currently consulting on the content of that contract.

The Convener: If it was established that a club routinely, or on more than one occasion, had not been paying the minimum wage, would you see the SPFL as having any role in applying sanctions to that club?

Neil Doncaster: As I have mentioned on numerous occasions, the Government body that is responsible for sanctioning in response to breaches of national minimum wage legislation where they may occur in any business throughout the land is HMRC. We absolutely have a role to play. We have a role in adjudicating disputes between players and clubs, encouraging best practice, encouraging clubs to understand how the law applies and investigating allegations of deficiencies.

10:30

The Convener: So, where there is a pattern of poor behaviour, it is not your job to encourage people toward good behaviour, as that is a matter for HMRC and others.

Neil Doncaster: I am not suggesting that there is any pattern or evidence of bad behaviour.

The Convener: I did not ask you whether you thought that there was evidence of bad behaviour; I am asking whether you would have a role if there were a pattern of bad behaviour. I think that you said that you encourage good behaviour but that

you are not in the business of dealing with established patterns of poor behaviour.

Stewart Regan (Scottish Football Association): Perhaps I can come in here. At no stage has anybody identified a pattern of persistent behaviour in that area. If a club regularly paid below the minimum wage, and it had been challenged for not doing so and the matter had been discussed, yet there were still persistent and knowing breaches of minimum wage legislation, there might well be a disrepute issue. That is a different test but, if there was a disrepute issue, the football authorities would consider it. However, at no stage has there been a pattern of regular breaches by individual clubs. If anybody had any evidence to suggest that any clubs are regularly breaking minimum wage legislation, that would be considered.

The Convener: The issue of disrepute is a helpful notion to have. As I said earlier—I will bring other people in, too—just because young people and their families allow themselves to be exploited does not mean that they should be.

Brian Whittle: Changing regulations is one aspect, but there have been concerns about the efforts to change the culture around that issue and about your willingness to consider the issue across the board instead of on a case-by-case basis. Your written submission referred to an adjudication mechanism and confirmed that the focus is on individual cases and on ensuring that payments that are due to players are made. What are you doing to promote that mechanism and to create an environment in which players feel that they are being supported?

It is a governing body's responsibility to look after the wellbeing of its members—especially, in the current climate, that of its youth members—for the long-term good of the sport. As has already been mentioned, it is hugely unlikely that a young player would make a complaint against the club that they play for, so the clubs trade on their dreams. How do you feel that you support players and look after their wellbeing?

Neil Doncaster: You said that it is hugely unlikely that a player would bring a request for adjudication, but that is not the case. Players bring requests for adjudication, and we have adjudicated on a number of contractual disputes between clubs and players that have been brought by players with the support of PFA Scotland. Where there is a dispute about a contract, we adjudicate; that does not happen very frequently, but it does occur, although not in this area. We do not know why individual players of the likes of Kieran Doran, who we have seen reports of in the press, have chosen to go down the route of talking openly in the press and engaging lawyers, rather than simply coming to us and asking us to

adjudicate on their contract. That would be a straightforward thing to do and we encourage any player who feels that they have an issue with their contract to come forward.

I believe that young players in the care of clubs are supported on their journey to what is hopefully a professional career. I encourage all members of the committee to attend academies to see for themselves the work that is done and to ask the young people who are in the care of clubs what they feel about the experience of being in the academy system. I hope that you will find evidence that there is a very positive culture in place. If you have not already visited academies, I urge you to do that.

Brian Whittle: If you are unaware of why that particular player went to the press instead of you, why have you not just asked him? Is that because—

Neil Doncaster: The player approached lawyers—

Brian Whittle: Sorry, but—

Neil Doncaster: I am answering your question.

Brian Whittle: I have not finished my question yet. You seem to say that the players have brought that forward. I am very interested to know which age group that applies to. If I had been involved in the governing body and there had been such an issue, the first thing that I would have done would have been to go to the player and ask him why he went on that route and whether there was anything that I could do to help him.

Neil Doncaster: The player in question approached his own solicitor, who chose to approach us. Clearly, we have a role in adjudicating on any dispute that may arise. What we do not want to do is to prejudge that dispute. If a player chooses to engage external lawyers to pursue a case on his behalf, that is absolutely a matter for him, but it would not then be appropriate to subvert that process and go other than through his lawyer. When we get legal correspondence in, our lawyers respond in kind.

The Convener: We need to be careful about talking about individual cases where people cannot defend themselves. We have been looking at patterns of concern in youth football, which is perhaps the point that Brian Whittle was getting at.

Rona Mackay: Good morning. Your submission says that a total of 18,000 registrations are processed in a year and it details a number of types of registration that take place. So that we are clear on numbers, will you tell us how many of those registrations involve any financial aspect with regard to payment of players?

Andrew McKinlay (Scottish Football Association): I do not have a breakdown like that. I have here a list of the 18,000 transactions. I am well aware that, in December, I said that there were 18,000 transactions and a question was put as to what they were. If I were to go through the list, a good number of them would have financial matters in them.

Rona Mackay: When you say a good number, what percentage would you put on that?

Andrew McKinlay: Honestly, I would have to get a breakdown.

Rona Mackay: Is it the majority or the minority?

Andrew McKinlay: I genuinely—

Stewart Regan: What kind of financial matters are you referring to? Are you talking about salaries?

Rona Mackay: Yes.

Stewart Regan: So you are talking specifically about player contracts, as opposed to all the other aspects.

Rona Mackay: Any part of the registration process that involves finance, whether that is salary or contract.

Andrew McKinlay: Anything that says that it is around transfer, contract, international clearances or cancellation of temporary transfer—anything that does not say “amateur” on it—could have a financial matter related to it.

Rona Mackay: But that is not standard. The fact that it could have does not mean that it does.

Stewart Regan: No—there could be, because some of those points are not related to any financial matter. Some may have finance in them while others do not.

The Convener: At the earlier meeting, the point was made that you had 18,000 registrations and that it was impossible to place all the details of contracts. Whereas we might think that a wage of £1 a week would be a big red flag, the point that was made was about the volume of transactions involved. I am interested in what proportion of those transactions would have the bit at the end that said what the contract was.

Stewart Regan: To be fair, if you are trying to identify how many of those contracts have finance in them, to then identify whether we could look at that smaller number of transactions, that is a very difficult point. Even if a player earns £1 a week on his contract, that may not breach the minimum wage legislation, because he may be being paid an appearance fee. He may turn up to play a match and simply have that on his contract, supplemented by an appearance fee. It is very

difficult to say that what is on that contract bears any relation to the number of hours that are being played.

The Convener: With respect, turning up will take more than 10 minutes. Would it have to be less than 10 minutes to apply the £1 per week?

Stewart Regan: But, in total, fees from an appearance would be greater than the minimum wage for the hours for which that player is involved with the club. So it is very difficult to say—

The Convener: We really need to make progress. The fundamental point is that it is simply not possible to be employed on a contract for even an hour and to be paid only £1 per week. The arithmetic does not allow it.

Neil Doncaster: What we are saying is that the only way that we will know whether a contract complies with the national minimum wage requirements is to look at how many hours that player has worked over the pay reference period and what their pay is over that period. That pay may be made up of a weekly wage and appearance money, so looking simply at the weekly wage will not tell us the information that we need in order to ascertain whether the national minimum wage legislation is being complied with.

The Convener: We have to make progress and, as I cannot imagine in what set of circumstances you could be employed and working so little that you still only get £1 a week, regardless of all the other payments that are available—

Stewart Regan: A player who lives down south and does not train with the club but who simply turns up for a match, and gets an appearance fee if selected, could get total earnings well ahead of the minimum wage, even if it says £1 a week on his contract. That is why it is difficult to draw conclusions. When you say that we should look at the information and deal with things, it is not that simple. We have several thousand transactions and we simply cannot draw the conclusions that you are saying we can draw by following the route that you are suggesting.

The Convener: We may need to get further information on what appearance money is and what you would get paid for turning up. I find it almost impossible to conceive that you could turn up and get away in time to justify getting paid only £1 a week, but we can explore that further.

Neil Doncaster: With appearance money coming in, that would not be the case. If you were paid, let us say, a £200 appearance fee, and £1 a week, and you play a game, you will be fine with the national minimum wage.

The Convener: In that case, you would not have any national minimum wage, because a

national minimum wage of £1 a week is utterly impossible arithmetically, but if anyone—

Neil Doncaster: You have to know how many hours they are working and what the overall pay was.

The Convener: They could not work an hour for £1.

Neil Doncaster: We are not talking about simply getting £1. We are talking about getting appearance money and the weekly wage.

Stewart Regan: It is the total earnings. That is what the minimum wage will look at. It is the total earnings divided by the number of hours that have been worked, so you cannot draw the conclusions that you are drawing simply by looking at that contract figure. We have tried to stress that on several occasions, and you seem to be fixated on the fact that clubs are somehow in breach of the legislation. They may not be. Where they are, and it is brought to our attention, clearly it will be dealt with. HMRC has already followed through on the cases that have been brought to our attention.

The Convener: It is not that we are fixated. It is that we are trying to understand how the national minimum wage applies uniquely to football so that you can end up with a contract that would not exist in any other form of employment.

James Dornan (Glasgow Cathcart) (SNP): I would be interested to know how many contracts you have where somebody is on £1 a week and appearance money. That sounds like a kind of “Roy of the Rovers” scenario where somebody travels up from England and then gets £2,000 for playing for 20 minutes or something. I was disappointed by the very first response, because it seemed to be a continuation of what we heard in December, which was, “This has nothing to do with us. This is HMRC’s business.”

You are responsible for a number of things, and one of them is the reputation of Scottish football. It is wrong for you to have a club paying somebody £1 a week or £10 a week, or anything similar to that, and for you not to be able to hold your hands up and accept that or to say that the first thing you would do is get in there and ensure that, if that club repeated that, there would be sanctions to pay, and that you would want to know why they did it in the first place.

Mr Regan, you said that if there was a culture of such contracts, or a number of such incidents, that would be a matter of disrepute, but surely a £1 a week contract from any club trying to con some young boy into signing a contract is bringing football into disrepute.

Stewart Regan: No, it is not.

James Dornan: It is not?

Stewart Regan: You are assuming that the club has done it deliberately. The club may well be ignorant about the type of contract that it has to use, and the training and education that have been put in place through the seminars are designed to address that.

James Dornan: There is a contract and somebody has written it—lawyers or whoever—and in that contract it says £1 a week. The club has a responsibility to know what it is paying that child for, because at the end of the day we are talking about a child. You are saying that that is not the responsibility of the club either. What is its responsibility?

Stewart Regan: What we have said is that you cannot draw the conclusions that you are drawing simply by looking at the £1 a week figure.

James Dornan: We certainly can in this case.

Stewart Regan: Well, you have quoted one figure, and that has been dealt with by HMRC. That is one incident.

James Dornan: No, there has been more than one.

Stewart Regan: We would not assume that because of one incident, which may well have happened as a result of human error, we suddenly leap to disrepute. That is not how it works.

James Dornan: I will ask one question that I think may offer a solution. It leads on from the point that the convener made. Surely the solution is that you have a system where people go through the registers and check to make sure that everything is signed in the appropriate places, that everything is dated and that the names are correct—all that sort of stuff. Surely there is a box there that says “contract”, and they check the contract and if there is anything at all—even taking into account the “Roy of the Rovers” scenario—that does not look as if it is abiding by the law, it is red flagged and you look into it further. That cannot be a difficult thing to do. Why does the SPFL pass on that responsibility to the SFA?

10:45

Stewart Regan: I will answer that first off; Neil Doncaster may have additional comments after that. The book that I have with me sets out the Scottish FA rules and articles. Those are the best part of 270 pages. In addition to that book is the law of the land. We have the working time directive and laws on age discrimination, sex discrimination, health and safety and protecting vulnerable groups. If the Scottish FA or the SPFL were to check for compliance with every single rule and law, we would not be able to promote, foster and develop the game of football, which is our primary responsibility. We operate through

exception. If matters are brought to our attention we have processes for dealing with them. We deal with exceptions; we do not micromanage. We are not in a position to micromanage every single part of the game.

James Dornan: A contract is a crucial part of the relationship between a club and a player.

Stewart Regan: You are absolutely right—it is.

James Dornan: You are suggesting that it is just another one of those things that the Government brings in to burden you with.

Stewart Regan: Not at all. I have never said that. I fully accept that the contract is a key part of the relationship between the employer and the individual. However, on the question of being responsible for checking compliance, as we have already identified to you, it is not simple to draw conclusions from the point that you make.

James Dornan: No, it is not, but issues should be red-flagged and looked at.

Neil Doncaster: Mr Dornan has asked why we have a single registration system that is administered by the Scottish FA rather than a separate system that is also administered by the SPFL. That is simply for efficiency. Why would two separate registration systems be needed? Eligibility to play in our SPFL competitions arises by merit of Scottish FA registration. Surely having one registration system seems more efficient and sensible all round.

James Dornan: Except that you do not know what contracts players are getting.

Neil Doncaster: We do know, when we need to know. When there is an adjudication request, we get hold of a copy of the contract from the Scottish FA and we adjudicate on the dispute. That is what happens.

Maurice Corry: Good morning, gentlemen. You have indicated that you have provided clubs with guidance on compliance with minimum wage requirements. Does that guidance contain anything about what activities undertaken by a player should be included in any calculation of hours worked? For example, if a player is travelling to an away game, should the time that they spend travelling be included in that calculation?

Neil Doncaster: That matter is dealt with specifically under the new form of part-time contract that we are consulting on.

It is intended that there will be two schedules within that contract that set out what activities are obligatory and what the player has to be paid for as part of their working hours; and what activities may be voluntary, that cannot be demanded of the player and do not have to be paid for. We, and

clubs, need to understand what are working hours. On a club-by-club, player-by-player basis that may vary but, ultimately, what is work needs to be well understood and the minimum wage needs to be applied.

Angus MacDonald: Good morning, gentlemen. A commitment that you have made previously was the introduction of a game-time rule, under which a player can leave their club if they have not played in a sufficient number of matches. That rule has been set at 25 per cent. How was that figure reached? Who was involved in discussions in setting that level?

Andrew McKinlay: We consulted at the time of the commissioner's report. We set up a group that consulted across clubs in the game. We also put out the consultation to players in Club Academy Scotland. Based on all the responses, we went back with our response to the commissioner. An aspect of that response was that we should have a game-time rule and it was thought that a 25 per cent level would be appropriate. We will monitor it to see whether it is appropriate, but that is the percentage that we came up with. I am not going to pretend that there was magical science behind it.

Angus MacDonald: In general, the clubs were happy with that.

Andrew McKinlay: Yes.

The Convener: In your submission you outline some changes to be brought about as part of project brave, including the introduction of summer football, which you say

"will necessitate a change to the system of registrations including the age groups for registration."

You indicate that the detail of the change

"is currently being considered and has still to be finalised."

As you know, the period of registration for players in the 15 to 17 age group is an issue of concern to a number of people. Is there any flexibility in the work on-going at the moment to look again at the question of what happens to young people who are registered at 15 but who cannot make their own decision about moving on at 16?

Andrew McKinlay: That issue will be looked at as part of the on-going work.

The Convener: Do you accept that there is an issue there? At 16, a player should be able to say, "I'm entitled to move on."

Andrew McKinlay: We have given our reasons in relation to the age groups a few times, in submissions and in response to questions, but those issues need to be looked at as part of project brave.

Maurice Corry: Your submission refers to the upheaval that could arise if the period of registration was shortened, and expresses concern that that could disrupt family life and education. As I think we have asked you previously, why is it the business of the SFA or the SPFL and not the parents of young players—or young players themselves if they are over 16—to determine what best serves players and their families?

Stewart Regan: That goes back to the start of our journey with the Public Petitions Committee back in 2010. We have been on that journey for seven years, and the questions that are being asked now bear no relation to the six points that were set out in the petition. In fact, we have not discussed two of those points at all, in any of the times that we have been before the committee. It would be interesting to get the committee's view on where we are with those points.

On the registration of players, we mentioned at the first meeting we attended that compensation for training is a key reason why clubs continue to run academies. If another club can simply come along and take a player, after several years of training and development, clubs will cease to focus on the development of young players. A registration is a way of managing that.

A registration complies with FIFA guidelines and is operated by most football associations across the world. We have made changes and improvements to the process; for example, a player can leave the club if they do not wish to stay, and they can return to the grass-roots game. That option did not exist before and is one of the improvements that we have put in place as a result of our dialogue with the committee and the petitioners.

We have also introduced the game-time clause, which we have set at 25 per cent. If a player or his parents feel that he is not being treated well by the club and getting game time, he can leave. He has a 14-day window at the end of the season in which to exercise that option.

We have made specific changes to try to address the challenges, but if we were to remove registrations and allow players to be picked up by other clubs after several years, we have to ask ourselves whether that is in the best interests of the development of elite players in Scotland. Although we must consider the rights of children, we must also look at the rights of potential elite performers and whether we are giving them the best possible chance of making it.

Brian Whittle: The question of the club being able to retain registration, subject to compensation payment being made, has come up before in the committee's consideration of the petition. I want to

establish as clearly as possible the position in that regard. Which FIFA statutes regulate the transfer of players and exactly what do those statutes say about the payment of compensation?

Stewart Regan: There are two specific areas to focus on, one of which relates to domestic football. Two or three years ago—possibly longer—we agreed on a training matrix in Scotland. Again, that improvement resulted from our dialogue with the committee.

The second area relates to cross-border compensation when a player moves from country to country. Through FIFA, guidelines have been put in place that work across all countries. Depending on the movement of the player, we will operate the appropriate matrix.

Brian Whittle: You have not answered the question about the payment of compensation according to FIFA. Are there regulatory differences there?

Stewart Regan: There is a different payment mechanism—maybe Andrew McKinlay can pick up on that. I will try to understand the question, though. Are you asking whether FIFA acknowledges that compensation should be paid if a player moves? If so, the answer is yes, in the same way as domestic compensation is paid if a player moves within Scotland. There are different models, and different sums are involved, but there is a training compensation formula that works for cross-border and domestic.

Brian Whittle: That was the question. Thank you.

The Convener: While we are talking about FIFA, I want to ask about the concerns you have expressed to us regarding the implications of external regulation. Both PFA Scotland and FIFPro have indicated that they do not consider that their status in FIFA would be at risk should national legislation regarding child welfare be applied to football. That is quite an important point, compared with your suggestion that if there is some kind of external view on what is happening with the wellbeing of young people in football, it would damage your prospects of staying in FIFA. Do you accept that that suggestion is simply not credible?

Stewart Regan: We were asked to provide FIFA articles and statutes in relation to the whole topic of Government intervention in football. That is what we have done; we have set out the actual FIFA guidelines. We have given you several examples where FIFA has intervened and suspended members because of Government intervention. Whether FIFA would choose to intervene in the case of any regulation of the Scottish FA by the Scottish Government is a

matter for FIFA. We have simply drawn your attention to the relevant articles in the statutes.

The Convener: But do you accept that the evidence suggests that there is no prospect of FIFA coming in to remove your status on the basis that the Scottish Government has said, “Child protection and wellbeing should be central to what you do and we think that you should have a role in ensuring that clubs are not exploiting young people in relation to the national minimum wage”?

Stewart Regan: I think that we would identify to FIFA all the changes that we have made as a result of this discussion and the on-going dialogue—whether that is the introduction of a child wellbeing panel, the introduction of a training compensation matrix, changes to our scouting process, the introduction of commitment letters, the renewal of schools football for players who are with an academy, the creation of a child protection and wellbeing department, the reduction of the number of players through project brave, the introduction of a grass-roots 28-day clause or the introduction of the game-time clause—as well as the facilities improvements under point 6 of the original petition, which we have not mentioned for several years.

We would flag up all those changes to FIFA. It is unlikely that FIFA would think that we were in any way breaching any of its regulations. We cannot comment on whether it would choose to suspend us because of Government intervention; that is a matter for FIFA.

The Convener: But do you accept that both PFA Scotland and FIFPro have said that in their view, such a suspension would not happen because of this kind of intervention—because the Scottish Government and the Scottish Parliament think that there are child protection and exploitation issues here that we want to be part of a conversation on?

The original characterisation of the situation was that the suggestion by the Children and Young People’s Commissioner Scotland that there should be external regulation of the wellbeing of young people in particular threatened your membership of FIFA. However, the evidence tells us that such a suspension would not happen.

Stewart Regan: It is a hypothetical question because we do not know what changes you would seek to impose. Until they are put in place, FIFA is not able to comment. We note that the children’s commissioner has written to FIFA flagging up concerns about the operation of Scottish football and there has been absolutely no response from FIFA—there has been no comment or request for information. On that basis, we assume that FIFA is content with how we are managing the issue in

Scottish football, which is no different from how other associations operate.

The Convener: So we can work on the assumption that it is also hypothetical that FIFA would come in and remove your status on the basis that we think that it is legitimate for Government to look at the whole question of child protection in football—it is equally hypothetical.

Neil Doncaster: We know that FIFA takes a dim view generally of external interference in the affairs of football associations—

The Convener: Does FIFA take a dim view of the exploitation of young people in relation to the minimum wage?

Neil Doncaster: —and we cannot know what view FIFA would take of any intervention here.

The Convener: But we can assume that FIFA would take a dim view of an organisation not complying with the law of the land.

Neil Doncaster: As Stewart Regan has just pointed out, I would hope that all the changes that have been delivered by the Scottish football authorities—working with this committee—over the past seven years demonstrate to FIFA, to people within the Scottish Government and to the world generally that Scottish football takes its responsibilities very seriously, that a positive culture exists and that talk of exploitation is simply wide of the mark.

Rona Mackay: Before I ask my main question, I want to return briefly to the minimum wage question. Is there anything in the registration contract that says that the club will abide by the law and pay the player at least the minimum wage?

Stewart Regan: Following the discussions with the committee, we recently introduced a change to the registration form whereby clubs have to confirm that they comply with minimum wage legislation.

11:00

Neil Doncaster: To add to that, the single-player contract that is used by the SPFL and by players and clubs does not, in its current form, specifically mention the national minimum wage, just as it does not specifically mention any other law that may be relevant to the contract. However, in response to the dialogue with the committee and the concern over the issue, the new part-time player contract, which is currently in draft form, will refer specifically to the national minimum wage. That is part of our efforts to ensure that clubs that are trying to comply with national minimum wage legislation are better able to ensure that they do so.

Rona Mackay: When will the new draft come in?

Neil Doncaster: We hope that it will be in place this summer. It is currently being consulted on; PFA Scotland has a draft copy of it and, as soon as we are in a position to recommend it to our board, it will be approved, we hope, and rolled out for use by clubs.

Rona Mackay: I have a follow-up to the convener's question about compensation. What is your opinion on the suggestion by the former Children and Young People's Commissioner Scotland that compensation is due only at the point at which a player signs their first professional contract, and on how that complies with the regulations?

Andrew McKinlay: I think that the commissioner suggested that as an alternative to what we have in place—

Rona Mackay: What is your view?

Andrew McKinlay: What we have in place is the current matrix. Our view is that, if we introduced something similar to what has been suggested, it is likely that the bigger clubs would take a punt and take players from the smaller clubs. There would be no encouragement for them not to do that, and that would then discourage the smaller clubs from having academies. Our view is that the current system is fairer than the alternative that has been suggested.

Rona Mackay: Is that the general view?

Stewart Regan: Yes, absolutely. If you look at the role of clubs, you will see that we are all interested, through project brave, in developing home-grown talent that can go on and play for Scotland. One of the recommended ways to do that is through running an academy. If that academy has no protection in place and the bigger clubs from Scotland or elsewhere can simply come in and take the best players, the clubs will just shut those academies down. From a children's rights perspective, with regard to elite players, we do not think that that is the best solution.

Angus MacDonald: I want to go back to project brave and explore the matrix a wee bit further. You have indicated that the compensation matrix, or the reimbursement of training costs, is to be re-examined as part of project brave. What does that entail? Does it simply involve the levels of compensation, or is it about more than that?

Andrew McKinlay: It may not involve the levels of compensation. The matrix is based on the status of the club, and through project brave the status of clubs is likely to—or will—be different, so we will have to change the matrix to deal with that. As part of that change, we should look at the matrix and speak to clubs about what the

alternatives might be. We have on-going discussions with clubs about rules and whether there are other ways to do things.

James Dornan: I want to touch briefly on the point that was raised about the minimum wage now being highlighted. Will that now be, as I suggested earlier, one of the areas that has to be checked, given that you have said that the minimum wage will be part of the new arrangements?

Neil Doncaster: You are either genuinely misunderstanding the position or your approach is deliberate, but the fact is that we cannot know from the face of the contract whether it is national minimum wage compliant. It depends on how many hours the player will be working in that pay reference period, and that will be known only to the club and the player.

James Dornan: I am clearly being stupid here, and I apologise for that. I will go back to my original question. If it does not say on the front of the contract that the rate of pay is clearly above the minimum wage, would that raise a red flag that would enable you to say, "Don't worry about that one," for such and such a reason? If it is being checked, and there is a red flag against something but you understand that it is secure and safe, and it is working fine—

Neil Doncaster: But what are we checking?

James Dornan: As the convener just said, we are checking that young boys are not being exploited. If on the front of a contract it says that someone will be paid £1 a week, people should be able to say, "What's this? £1 a week?" and you can say—

Neil Doncaster: If the person is not working in that pay reference period, where is the breach?

Stewart Regan: If a club ticks a registration form to say that it is complying with minimum wage legislation, which clubs will now have to do, and if it submits a contract that says that it is paying £1 a week, the logical assumption is that there is something other than £1 a week—such as an appearance fee—to take the player's earnings above the level in the minimum wage legislation. Unless that is flagged by a young person or by an individual, we have to assume that the club is abiding by the law, in the way that we do for the working time directive and age and gender discrimination laws. We do not go to every club and ask, for every employee, "Are you following all the laws?"

James Dornan: Mr Regan, how many times do you think that you have those £1 a week contracts, or whatever it is, with the person being paid by appearance? I suspect that it is a pretty minimal number, and I suspect that it would not take much

to check that. You could get in touch with the club and say, "Let me just make sure why this is. Is it because the person is getting appearance fees? Can you give me the details of that contract?" That would not be an onerous task for the SFA or the SPFL.

Stewart Regan: As we have continually tried to highlight, that does not address the point that you are trying to get to. Where do you draw the line—at £1 a week, £5 a week, £10 a week or £7 a week?

James Dornan: I would draw it at the minimum wage.

Stewart Regan: The minimum wage is the total earnings and not the figure that is in the contract.

James Dornan: No, it is not. You seem to misunderstand what the minimum wage is.

Stewart Regan: It is the hours multiplied by the player's earnings.

James Dornan: What do your hours consist of? If I sign a contract with you, I sign it from, say, 9 o'clock in the morning on a Monday to 5 o'clock on a Friday, and I expect to get X amount of money for that.

Stewart Regan: It is the hours of regulated work. That includes travelling time, which Maurice Corry talked about, training evenings and match time. All of those things give the number of hours, and the earnings divided by the hours will give you the wage and show you whether it is above the minimum wage that is set in legislation. You are shaking your head, but that is actually the point.

James Dornan: I am trying to be helpful. What I am suggesting would be an easy way out. Somebody could check whether the wage exceeds the minimum wage. If the contract does not have the minimum wage on it, there should be a reference point against which somebody can check to say that it—

Stewart Regan: But if a club is ticking a form to say that it is abiding by the minimum wage legislation, who are we to assume that it is breaking the law? It is the same in lots of other areas. If that comes to our attention, we deal with it. We cannot go and check every transaction on every contract for every player across every club. We would be operating a bureaucracy, and where would we draw the line? What other legislation are we going to check?

James Dornan: You would be operating a bureaucracy, which is what you are.

Stewart Regan: Would we check in relation to the working time directive, age discrimination, sex discrimination, health and safety or PVGs?

James Dornan: You have just told us that you are going to have a specific new clause about the minimum wage. You have not told us that you are going to have anything about sex discrimination, race discrimination or anything like that, so you recognise that the minimum wage is an issue. Do not try to lump it in with everything else so that you cannot highlight it in the way that I am asking you to.

Stewart Regan: We have addressed that point because it came up in the discussions with the committee. As an organisation, we have tried to be helpful, as we have for the past seven years with all the other improvements that we have made, and we have deliberately taken a step to introduce a mechanism so that clubs confirm, on that point, that they are complying with the law. I am not sure that that is anything other than being helpful and positive about the committee's concerns.

The Convener: The point that we would make is that you are in a unique position to help encourage the best of behaviour among clubs.

Neil Doncaster: We do that.

Stewart Regan: We do that.

The Convener: When you see a £1 a week contract, I would have thought that the next step would be to check whether that player is getting appearance money. I do not know, but I assume that appearance money is in contracts and that it will not be all that common for youngsters to get appearance money.

Neil Doncaster: To the contrary.

The Convener: So, if you have a series of contracts that say £1 a week, the presumption would be that there is not going to be appearance money, and therefore it would be reasonable for you to check further.

Neil Doncaster: Generally, you would have appearance money in a contract.

The Convener: You would have?

Neil Doncaster: Yes.

The Convener: So it would be a simple thing to check.

Neil Doncaster: Check what? The fact is that you do not know whether a contract is minimum wage compliant without knowing how many hours a player has worked in that pay reference period. We can absolutely help and encourage clubs to be compliant; they want to be compliant and we are trying to educate them. However, it is a difficult area, because you need to know how many hours the player is working for. What constitutes work will vary from club to club, and what the players are required to do as opposed to what they might wish to do might be different.

The Convener: Let us work on the assumption that the vast majority of contracts do not say that players will be paid £1 a week. When you go through the process of registration, you will be able to say, “This one’s fine, this one’s fine—but here’s one that talks about £1 a week. Let’s check whether there’s appearance money in the contract and ask the club what that actually means.” I go back to the point that no matter how little you are working—even if it is a matter of opening your eyes when you arrive at the football stadium—it is virtually impossible to work for a pound’s-worth of national minimum wage.

This is something that we will want to reflect on later, but the question that we put back to you is that, having accepted that there is an issue with the minimum wage, how can you be positively involved in encouraging good behaviour? That is really what we are asking you. We are not asking you to go back and check every single contract, but there are basic questions that you could ask to ensure that people are not trying to avoid the advice that you have been giving them.

Neil Doncaster: Perhaps I can respond to that. We are positively engaged with clubs in encouraging good behaviour and compliance with the law and ensuring that they understand it. It is a difficult area of the law, and where there is a request for adjudication, we will deal with it. However, we cannot be on the ground at the training grounds, monitoring how many hours individuals work.

The Convener: Of course you cannot, but you have a role in encouraging good behaviour.

Neil Doncaster: And we fulfil that role.

The Convener: I will repeat this again so that we understand the context around all these issues: there are young people and families who are willing to be exploited, and in my view, part of your job is to ensure that that is not permitted and to discourage people from trading on other people’s dreams.

Neil Doncaster: I think that we do that.

The Convener: But that is the evidence that has been given to this committee and which we have heard from beyond.

Neil Doncaster: It has been suggested that other associations somehow monitor the contracts and registrations that are put in front of them in this way, but we do not believe that to be the case. Andrew McKinlay has certainly had conversations with the Football Association about this.

Andrew McKinlay: It was suggested that the FA did this but that is not my understanding from the conversation that I had with a senior person at that organisation. To be fair, it is hardly a big deal

for the association at the top of its game, but it does not do it.

The Convener: So exploitation of young people must be part of the culture of football.

Andrew McKinlay: This was to do with the specific suggestion that if the FA was doing this sort of thing we should be doing it, too. I have spoken to the FA, and that is not our understanding.

Stewart Regan: In its letter to the committee, real grass roots stated that the FA was doing this, and it asked why, if that was the case, we were not doing it, too. Our information is that the FA is not doing this, and it is not something that is monitored in the way that was suggested.

The Convener: This could go on for some time, but it feels to me that the issue is not all that difficult. You are in a privileged position to improve clubs’ behaviour, which has been identified as being pretty unacceptable in some places.

Brian Whittle will ask a couple of final questions, after which we will wind this up.

Brian Whittle: Just for clarification, I point out that salaries and bonuses are two different things. Minimum wage is calculated on the salary that you are paid, not the bonus that you might get.

Stewart Regan: It is not a bonus.

Brian Whittle: It is a playing bonus.

Stewart Regan: It is not a bonus.

Brian Whittle: Yes, it is. Under the law—

Stewart Regan: They are appearance fees, which are different from bonuses. You get a bonus if you win something, but you get appearance fees if you play in the team’s starting 11.

Brian Whittle: Trust me on this: I come from sport, I have worked with an awful lot of national governing bodies and I have been in a sales environment. Bonuses are not counted within salary.

Stewart Regan: It is not a bonus. You are misunderstanding the point—a bonus is something that is in addition to your salary. Appearance fees are part of your earnings, because they are paid if you play on the team.

Brian Whittle: If you play. That is why they are not counted in salaries.

However, my point is, having worked with many national governing bodies, I believe that the wellbeing and protection of children and young people in the sport and therefore the future of the sport are always paramount. Gentlemen, given your responses so far, I am concerned that that is not the focus of the SFA or the SPFL. What I am

looking for is some recognition of the need for a culture change. I totally understand that you are working in a professional environment, but I am looking for reassurance that you are looking after the wellbeing of children and child protection, especially with regard to PVG checks. That situation is not good, either in football or in coaching, and such checks do not even need to be carried out on agents or referees. These are the things on which I am looking for some indication from you.

11:15

Stewart Regan: Earlier in this discussion and earlier in this evidence session, I identified 10 fundamental improvements that we have made for the benefit of children in football as a result of on-going dialogue, despite the fact that the original petition and what we are now talking about are two completely separate things. We have moved on. Over the past seven years, the committee has brought more and more and more topics to the table. We have demonstrated in all those cases that we are prepared to make changes and improvements, and we have done that.

I say again that we are interested in young people's rights, and the changes that we have made demonstrate that. At some point, there has to be an acknowledgement that we have made those changes, rather than our continually being criticised for doing things that you feel are not looking after the best interests of children. Of course we are interested in that.

You mentioned intermediaries. They are not covered under the current PVG scheme. We are aware that Disclosure Scotland is looking at that, and if it includes intermediaries, we will fully support that. We have said that in a seminar involving ministers and Disclosure Scotland. Of course we would do whatever we could to make that happen.

Brian Whittle: All that I am saying to you, sir, is that, in the responses that have come to me, looking after the children and their wellbeing is not what has come through. That is really all that I am concerned about, and that is what I am asking you for.

Neil Doncaster: What do you base that judgment on?

Brian Whittle: You hardly talk about it unless we prod you with a stick. It has always been about procedure. All that I am concerned about is the wellbeing—

Neil Doncaster: You have asked about procedure, so we have given answers on that.

Brian Whittle: I have asked only about the wellbeing of children.

Neil Doncaster: I think your criticism is utterly unfair and shows a fundamental misunderstanding of the good work that is going on in Scottish football and in the clubs. I am very disappointed that someone from a sporting background, such as you, should wish to try to criticise all that good work.

Brian Whittle: I never criticised all that good work. I criticised you.

Stewart Regan: In seven years, we have had a single visit from a representative of the committee. That was the children's commissioner attending one academy for one visit, and we got absolutely no feedback from that visit.

It would be very helpful—and the offer is open again—if the committee came to the academies to talk to the families, the children and the clubs and actually heard from them before you arrive at your conclusions, because there is a lot of good work going on in our clubs.

The Convener: That is certainly one of the things that we will want to do. I very much hear what you are saying about having a proper understanding of what is happening.

I will ask one last question and then we will pull this together. What support has been put in place to assist non-professional clubs to accommodate players who come out of the club academy system into youth and other recreational football? I am thinking about the journey back, where there may be a sense that players have not made it. If you are reducing the numbers, how will you deal with that transition? How will you support clubs that might want to pick those young people up again?

I have heard some anecdotal evidence that, when young people are picked up by clubs and they, for want of a better word, fail or do not make it, they are then lost to the sport all together. In terms of wellbeing and health, that would be a concern.

Stewart Regan: Again, you are speculating on what may be an issue. We have no evidence and there are no instances to our knowledge of anyone flagging a concern to us that they have somehow been lost to the game of football.

We have listened to the petitioners and to the committee, and one of the fundamental recommendations of project brave is that we reduce the number of players in the system by reducing the number of centrally funded academies. Where elite academy status is not achieved, clubs may choose to continue to run a youth programme and fund it of their own volition. In that case, those players will not come out of the system. We are speculating on how and when players will come back to the grass-roots level.

On specific initiatives, I can think of one. PFA Scotland runs trial events for players who are released from clubs to try to identify opportunities for them going forward. We have taken in former players for internships, which is another example of us trying to help, and modern apprenticeship programmes are run in conjunction with clubs, private providers and local colleges. Again, some of these things would come out if you were able to visit the academies and see the work that is going on.

The Convener: My question was not meant to be a harsh one, because I recognise that there is a tension between, on one hand, the needs of elite young players, the football system and the ability of Scottish football to improve and, on the other, the experience of young people who do not make it. I was just asking how we deal with that tension in the system between the aim of getting young people active and involved in football and that of producing elite sportspeople, which is a challenge in any sport. It would be interesting to find out more about some of the things that you have mentioned at a later stage.

Do members have any final questions?

Maurice Corry: Gentlemen, do you have any idea of the average number of hours per month for which a young player on the £1 contract works, excluding appearance time?

Stewart Regan: No.

Maurice Corry: Would it not be worth having a look at that?

Stewart Regan: As we said earlier, we have thousands of transactions. Without understanding the hours that are involved in every case, we are not able to provide that information. We have asked clubs to comply with the minimum wage legislation. Going into football clubs and looking for shadows that might not be there is not a good use of football's time.

Maurice Corry: Given that we are considering the petition, would it not be a good idea for you to come up with that information? I am just asking for an average; I am not asking for detailed information. Could each club not be asked for how long, on average, a young player—

Neil Doncaster: There is no average. What work, if any, a player does for their club will vary from week to week.

Maurice Corry: There will still be an average.

Neil Doncaster: That information will be known only to the club and the player. It is necessary to be at the training ground to know that. Unless we install an SFA or an SPFL team at the training ground and at the stadium to monitor for how

many hours an individual player is working, we cannot know that.

Maurice Corry: It would be in your interests to ask clubs that question.

Stewart Regan: Are you suggesting that we should put people into every club in Scotland to identify that? What are you suggesting that we do?

Maurice Corry: I am not suggesting that. You say that you are taking a lot of interest in what the clubs are doing. That is fine, but if I were in your position, I would want to ask the clubs—to make sure that they are not seen to be paying less than the minimum wage—for how many hours a week, on average, the kids we are talking about are on the field, excluding the appearance time that you mentioned. That is not difficult to calculate.

Neil Doncaster: It is not difficult to calculate, as long as you are there, seeing how many hours a player is putting in.

Maurice Corry: I am asking you just to ask the clubs.

Neil Doncaster: We are encouraging and helping the clubs to be compliant, and we are educating them about the law, but it would be wrong to usurp the authority of HMRC as the primary authority in this area.

Maurice Corry: Would it not be sensible for you guys to have that basic information available to you so that you can answer that question?

Neil Doncaster: It is impossible to know how many hours a week a player is working for. That can only be known by the player and the club.

Rona Mackay: Unless I am misunderstanding your explanation of your understanding of the minimum wage, it seems to me that the children in question are being signed up on zero-hours contracts. You say that if they do not play, they do not get paid—they get an appearance fee.

Neil Doncaster: I am not sure about your reference to children. We are talking about professional football players.

Rona Mackay: Okay, but they are young people or children.

Neil Doncaster: There is a misunderstanding of the difference between a registration and a contract that has pervaded much of the discussion that we have had over the past seven years. A registration will apply to all players who are registered with the Scottish FA, whatever their age and regardless of whether they are professional or amateur.

In the case of the SPFL, a contract will be a professional contract; sometimes it will be for a full-time player, and sometimes it will be for a part-

time player. It is clear that the minimum wage legislation will apply only to professional players, because there is no payment for work for an amateur player. Our focus is on ensuring that our member clubs are abiding by the law in that and other areas, and we will assist them to do so.

Rona Mackay: Earlier, I asked how many of the registrations mention financial payments and you could not tell me. I am struggling to understand the whole system. Earlier, you said that some payment is mentioned when players register, but now you are saying that that is not the case. Am I correct about that?

Neil Doncaster: I am not sure that I understand the question. Andrew McKinlay has given evidence that about 18,000 separate transactions involving the Scottish FA registration department are processed a year. Clearly, a large number of those will have a financial element to them. A number of those will be purely amateur related, where there is unlikely to be any financial information, but anything to do with a professional player will have a financial element.

Rona Mackay: Yes, I understand that.

The Convener: Your expectation would be that if a young person is on a contract of £1 a week, that would in effect be a zero-hours contract and that they would get paid for the hours that they work.

Neil Doncaster: I am sorry, but I am not going to get into generalisations about what is going on. Ultimately, there is the law of the land on the national minimum wage. We are doing our utmost to ensure that clubs have the information available to them to understand what the law is and how it applies in the professional football sphere. We have delivered out a seminar to which all professional football clubs were invited. We will continue that education process. We are amending the professional contract that we give to clubs to use, so that we have one that is specifically for part-time players. As it is drafted, that part-time contract makes specific reference to the national minimum wage; it also includes individual schedules that can be completed by the club and the player to ensure that there is a complete understanding of what is work and must be paid for and what is not work—that is, other activity that will not be paid for. That must be agreed between the club and the player. That is what appears at the Scottish FA as part of our registration process.

The Convener: You have talked about the petition growing legs. We could have a whole argument about what is and what is not work and what a player is obliged to do at a football club that they do not get paid for but if they do not do it they will not get work or a game. The whole thing is—

Neil Doncaster: If you are obliged to do it, then it is work.

The Convener: That is, in itself, a useful flag to the clubs regarding some of the issues that we have picked up.

James Dornan: Convener, your point relates to the earlier comment about whether someone is getting paid a weekly wage of £1, £5 or £10 or whatever the amount may be. Someone who is coming in every day and training hard but not getting game time might be getting only £1 a week.

Neil Doncaster: That should not be the case. If they are being obliged to—

James Dornan: But that is—

Neil Doncaster: Please let me answer your question. If they are being obliged to train and are called up and obliged to play in a game, that would be work and they should be paid at least the national minimum wage for that work.

James Dornan: I am making the point that they might not get called up to play a game. Like many other children or young people, they are at a club, training hard, but they may not get a game.

Neil Doncaster: If they are obliged to work in that week, whether it is training or any other work that they are required to do, they should be paid the national minimum wage for that work, irrespective of whether they play at the weekend.

James Dornan: That was the point that I was trying to make earlier.

The Convener: We have just about run out of time. I want to deal with the point that the petition has been open for a long time. The committee has looked at not holding on to petitions for too long. We do not necessarily want to keep them open, but as long as there are issues material to the subject, it is legitimate for us to look at them.

I hear what has been said about the original petition and how it has grown arms and legs. I suspect that it has grown arms and legs because issues are emerging regarding a sport that we all care deeply about and the way in which young people, who also care deeply about that sport, are maybe ending up feeling as though they have not been treated well. Those are powerful reasons for our including the Children and Young People's Commissioner for Scotland's intervention.

I recognise that there has been movement and progress by you. That in itself tells us that there have been issues to address. We are keen to take up your invitation to visit academies and that can be done as soon as it suits you. We have a shared interest in ensuring that young people are not exploited, that child protection is in place and that we are supporting the sport.

Our intention is to draft a report on the petition. We also hope to have a debate in the chamber. You will know from the petitions process that it is possible for us to close this petition and for a new petition to be lodged on some other issues that were not immediately relevant at the point that the initial petition was submitted.

My sense is that everyone in this room wants to ensure that we develop the elite sportspeople in football, but we must not do it on the back of a football culture in which young people and their families will accept things that they ought not to be encouraged to accept. I think that there is evidence of that and we are interested in your role in discouraging people from being encouraged to do things against their own interests.

I hope that we can agree to get the academy visits up and running and that there will be a debate in the chamber. If there are further points that you want to make as a consequence of today's discussions, we would be more than happy to hear from you. We recognise that you have already submitted quite a lot of evidence to us. Are there any final comments?

11:30

Stewart Regan: I would like to make a couple of points. First, I do not think that we should forget the progress that we are making within Scottish football at an elite level. Our under-17s are currently ranked sixth in Europe and have played in four successive European finals tournaments. Our under-19 women's team has qualified for European finals; our women's A squad has qualified for its first ever A squad international tournament in Holland later this summer; and our under-21s have just beaten Brazil for the first time in a competitive match. We are making significant progress and it is a result of our collective investment of time into Scottish football at the elite end.

There were two references in the original petition that we have not talked about for several years. One was about increasing the education target from two hours of physical activity a week to four hours. That would be helpful, because that is really important to Scottish football, to hear what progress the committee has made in that area and where changes have been made.

The final point in the original petition talked about the introduction of artificial surfaces across Scottish football for the benefit of player development. We have made significant progress in that area, thanks to the investment of cashback for communities funding and Scottish Government support for the development of Oriam—the national performance centre in Edinburgh.

I think that it is worth acknowledging the progress that has been made in that area, as well as your focus on some of the areas where you have concerns.

The Convener: We recognise the progress in Scottish football, even though it did not particularly feel like that last week. However, we have seen that there are changes and we would support those.

There is an opportunity to test what the Scottish Government is doing during the debate in the chamber and we will make sure that those questions are asked—certainly, I will make sure that those questions are asked. We will get a response from the Government because the debate itself affords the opportunity for the Scottish Government to lay out what it is doing in relation to the petition and more generally on Scottish football.

On the question of artificial surfaces, we can look at that further. Certainly, the debate on the petition will allow for an opportunity to get a sense of how much progress has been made and what still needs to be addressed both in terms of the wellbeing of young people and sustaining the sport in Scotland.

Brian Whittle: I recognise the stresses between elite and grass-roots sport. It is strange for me to be on the other side of that argument; I am usually defending elite sport.

As regards the gentlemen's earlier points, in drafting the report, it would be helpful if we could come to some conclusions about what we think from the discussions that we have had and put forward some ideas to the boards. I recognise that we get heated about this issue quite a lot—I am quite passionate about it, as you probably noticed—but it is incumbent upon us to put forward some ideas as well.

The Convener: That would certainly be the intention—once we have had the committee debate and heard from the Scottish Government, it will be possible for us to reflect on the petition, produce a report on it and decide what to do with it.

I understand that the debate will not be until after the summer recess. We did not want to squeeze it in at the end of a crowded business period in the chamber. We will make sure that witnesses have plenty of notice about the debate. I thank the witnesses for their attendance and I close the meeting.

Meeting closed at 11:34.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba