



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 21 December 2017

Session 5



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Pàrlamaid na h-Alba

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PUBLIC PETITIONS COMMITTEE
24th Meeting 2017, Session 5

CONVENER

Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Angus MacDonald (Falkirk East) (SNP)

COMMITTEE MEMBERS

*Michelle Ballantyne (South Scotland) (Con)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Alexander Burnett (Aberdeenshire West) (Con)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Public Petitions Committee

Thursday 21 December 2017

[The Deputy Convener opened the meeting at 10:03]

Continued Petitions

Antenatal Care (Electrocardiograms and Heart Echo Tests) (PE1602)

The Deputy Convener (Angus MacDonald):

Welcome to the 24th meeting in 2017 of the Public Petitions Committee. I remind members and others in the room to switch phones and other devices to silent. We have apologies from Johann Lamont. There are no other apologies.

We move straight to agenda item 1, which is consideration of continued petitions. The first petition is PE1602 by Carol Sunnucks, on electrocardiograms and heart-echo tests within antenatal care. We last considered the petition in September last year, when we agreed to defer further consideration of it pending the publication of updated guidance on cardiac disease in pregnancy by the Royal College of Obstetricians and Gynaecologists. In April of this year, the royal college advised that it had decided that there was no requirement to update its guidance on cardiac disease in pregnancy, as the National Institute for Health and Care Excellence is developing guidelines on intrapartum care for women with pre-existing medical conditions or obstetric complications and their babies. The royal college has indicated its hope that the guidelines will

“become the up-to-date reference for all clinicians”.

In her submission, the petitioner highlights her view that the scope of the guidelines that are being developed by NICE centres on pre-existing conditions or obstetric complications, but that

“there is nothing that looks at anti-natal care that includes ruling out the possibility of peri-partum cardiomyopathy”,

which women develop as a result of pregnancy. She argues that the introduction of a blood test would allow for in-depth testing and treatment before a woman goes into labour by identifying any indicators of potential peripartum cardiomyopathy.

The NICE website includes project information and documents and indicates that it expects to consult on the draft guidance from 6 September to 18 October next year, with an expected publication date of 6 March 2019.

Do members have any comments or suggestions for further action?

Brian Whittle (South Scotland) (Con): It is quite difficult for us to do anything with the petition until the NICE guidelines come out. However, it would be perfectly possible for the committee to write to NICE while it is developing the guidelines to bring the petition and the petitioner’s concerns to its attention. I am not quite sure what else we can do apart from that while it is developing the guidelines.

Michelle Ballantyne (South Scotland) (Con): I agree. We should write to NICE and ask it to consider including the management of women who do not have a pre-existing condition, recognising that such conditions can occur during pregnancy. However, I think that we probably have to close the petition. If, once the NICE guidelines come out, the petitioner feels that the issue is missing from them, she can always come back.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I agree with both suggested actions. I think that we need to close the petition, wait until we see what is in the guidelines, and take it from there. If the petitioner wants to come back, she can do that. I agree with Brian Whittle’s suggestion that we draw the petition to NICE’s attention, so that it can take it into consideration.

The Deputy Convener: I think that we have consensus around the table. There is a lot of merit in writing to NICE, but we should close the petition on the basis that NICE is developing guidelines that will be consulted on in 2018, with an anticipated publication date of March 2019. In closing the petition, we should bring to the petitioner’s attention the fact that there is a facility for people to register their interest in the development of the guidelines. If she is not satisfied with the conclusions that NICE reaches, she is perfectly entitled to bring back a petition in the same or similar terms in future. Do we agree to write to NICE and to close the petition?

Members indicated agreement.

Bus Services (Regulation) (PE1626)

The Deputy Convener: PE1626, by Pat Rafferty on behalf of Unite Scotland, is on the regulation of bus services. We last considered the petition in June, when we agreed to ask the Scottish Government to provide an indicative timescale for the consultation on the proposed transport bill and to engage with the petitioners at an early stage in that consultation. The Scottish Government indicated that officials would meet Unite to discuss the proposals for bus services prior to publication of the consultation and again following publication. It advised that the consultation would be published in the autumn.

The note by the clerk indicates that the consultation ran from 13 September until 5 December. It also identifies that the petitioners have not been in a position to provide a response to the Scottish Government's two most recent submissions, but have indicated that they would be keen to proceed with the petition.

Do members have any comments or suggestions for further action?

Michelle Ballantyne: We should invite the petitioners to respond. Until we hear what they think, I am not sure where we should go with the petition.

Rona Mackay: The petitioners have said that they are keen to provide a written response in the new year, so I think that we should wait until they do that and then take it from there.

Brian Whittle: I agree.

The Deputy Convener: Thank you. That is agreed. I encourage the petitioners to submit their views at an early date, and we will look at the petition again at a forthcoming meeting.

Ocular Melanoma (MRI Scans) (PE1629)

The Deputy Convener: PE1629, by Jennifer Lewis, is on magnetic resonance imaging scans for ocular melanoma sufferers in Scotland. At our previous consideration of the petition in June, we agreed to invite NICE and the Scottish Government to respond to the petitioner's argument that recent clinical trials have brought new evidence to light. NICE considered that it would not be appropriate to comment on any aspect of the petition, as it has not produced guidance on the use of MRI scans for ocular melanoma sufferers. The Scottish Government considered that there is

"currently not sufficient evidence ... to enact a change in surveillance protocols for people with ocular melanoma".

We also invited the Scottish Government to respond to the petitioner's view that guidelines are interpreted flexibly by centres elsewhere in the United Kingdom, which will provide MRI scans if requested. The Scottish Government presented its understanding that MRI scans are

"offered in a limited capacity in England."

The petitioner considers that the number of hospitals that offer MRI scans upon referral or request represents

"more than a limited capacity"

and notes that other hospitals elsewhere in the UK will also provide an MRI if the circumstances and concerns with regard to metastasis are explained to them. She contends that that is not provided to

patients in Scotland even when they explain the situation.

The Scottish Government provided further information in relation to the formation of a UK-wide group, which

"will share expertise and develop UK wide guidance and recommendations"

to

"ensure a consistent approach to screening and surveillance".

The petitioner and OcuMel UK have queried the benefit of such a group. OcuMel UK considers that that work has already been completed by the guideline development group, which produced guidelines approved—but not published—by NICE in 2013. OcuMel UK stated its concern that as the new UK-wide group is yet to be formed, it

"could considerably delay any advances in care for patients in Scotland".

Since late October, there have been further submissions that set out concerns about what are referred to as "negative developments" with regard to the provision of scanning services in Scotland. The concern is that patients are now required to attend local ultrasound appointments rather than go to the specialist centre at Gartnavel. In her submission of 21 October, the petitioner identifies three aspects of the role of the national services division that she feels are not being met as a consequence of the new approach to the provision of scanning services.

Do members have any comments or suggestions for further action?

Rona Mackay: There are an awful lot of questions that we need to pursue. There has been a negative response, and there still are no answers. I note that the group that was set up in August was in the early stages of its work, and almost four months on we are no clearer as to what, if anything, has happened. We need to pursue that and find out. We were told we would be kept updated on that work, so we need to find out what is happening. We should also write to the Scottish Government to let it know about the petitioner's further concerns. We should ask as many questions as we can, because I do not feel that there has been any progress at all on the petition.

Michelle Ballantyne: This is really frustrating—I feel as if people are playing ping-pong with the petition. We need to ask more questions, although I am slightly reluctant to write again just to get another letter back. Could we take evidence on the petition and have an actual conversation about it? I do not know whether that would be feasible, but I just feel as if we are knocking it back and

forth, not getting answers and then having to write again.

Brian Whittle: I share that frustration. The evidence that we took was well thought out and quite compelling. I am quite frustrated by the responses that we have had and I think that we have to stay on it. Our only option is to write again, although probably in stronger terms, given that our letters are being batted back and we are being pushed to the side. As I say, I thought that the evidence that was given was quite compelling.

10:15

Michelle Ballantyne: I do not mean that we should take evidence from the petitioner; I mean that we should take evidence from the minister and the chief medical officer.

Brian Whittle: Yes, absolutely.

Michelle Ballantyne: We need to talk to them about why they are ignoring the petition.

Brian Whittle: Is there a case for speaking to the CMO? From the Government's response, I do not get a sense of why the petition has been pushed aside.

The Deputy Convener: There is certainly nothing to prevent us from writing direct to the CMO to get her view. However, on taking evidence, there is an issue with regard to the workload that the committee already has. I am advised by the clerks that we may not be able to take evidence until possibly the end of March at the earliest. I think that we need to move the petition forward, so in the meantime, we should write to the Scottish Government and, separately, to the CMO, as Brian Whittle suggested.

Michelle Ballantyne: If we write to the Scottish Government and the CMO, could we say that if we cannot resolve the situation quickly in writing, we will require them to come in front of us? That may encourage them to address the questions, because they would know that they would have to come to the committee otherwise.

The Deputy Convener: Yes—there is merit in that suggestion. We can include that in any correspondence.

Michelle Ballantyne: I am conscious that time is of the essence for the petitioner. This is not a petition that can drag on for years. From the petitioner's point of view, it is a life-or-death petition.

Brian Whittle: We should also suggest that we have not been particularly enamoured with the responses from the Government.

The Deputy Convener: There is merit in all those suggestions. In the letter to the Scottish

Government, we should seek an update on the establishment of the UK-wide group and the development of guidance and recommendations on surveillance. We should also ask whether the group includes medical oncologists and whether the Scottish Government is aware of the guideline development group. Finally, we should seek the Scottish Government's position on recent peer-reviewed evidence and its response to the more recent concerns expressed by the petitioner and others about where patients should attend for surveillance. Is that agreed?

Members indicated agreement.

Concessionary Transport (Carers) (PE1632)

The Deputy Convener: PE1632, by Amanda Macdonald, is on concessionary transport for carers. When we considered the petition in June, we agreed to ask the Scottish Government what the estimated cost of introducing concessionary public transport for carers would be. The committee also agreed to ask the Convention of Scottish Local Authorities what consideration local authorities had given to the forthcoming duty under the Carers (Scotland) Act 2016 to provide support to carers who meet locally agreed eligibility criteria and whether that included any plans to introduce concessionary transport for carers. That information is outlined in detail in the papers.

COSLA's written submissions stated that the proposed concessionary travel scheme would not be affordable or represent the most effective way to invest public service resources. The petitioner suggested that if concessionary transport was considered too expensive to be rolled out through the national concessionary transport scheme, a national public transport flat rate for carers could perhaps be considered instead. Do members have any comments or suggestions for further action on the petition?

Brian Whittle: I have a lot of sympathy with the petition. We all know the monetary value of the job that carers do. As I have mentioned before, I have had a couple of opportunities to go along to a series of events with carers. One of the big issues is their ability to interact with others, and travel is another. I have a lot of sympathy with the petition.

I do not quite understand the response, because I do not think that the cost implications of the proposal are that high. I am surprised at the response, and I would certainly like to continue the petition and ask the Scottish Government its views on the petitioner's suggestion of a national flat rate for carers, at the very least.

Michelle Ballantyne: I have sympathy with the petition, but in some respects the issue of travel is

not just about carers. I know that the petition is, but we are debating travel and concessionary travel in so many forums and in so many ways. It is a problem across the board: it is a problem in rural areas where children cannot access activities; it is a problem for carers; it is a problem for older people; and it is a problem in the sense that we are losing a lot of our public transport, because the vast majority of people use cars now, particularly in rural areas. There is no accessibility. PE1626, which we considered earlier, is about changing the bus transport system as well.

Much as I have huge sympathy with the petition, I am just not sure that we could do anything with it at the moment. I suppose that the situation with local government—which is the point of subsidisation for transport—is that, if anything, it is reducing the amount of subsidy that it gives, and I cannot see that it is going to be able to add to it. I understand where COSLA is coming from. It is not that it would not want to support the proposal or even that it thinks that it is not the right thing to do; it is just that, at this stage, I do not think that it is going to be able to support it.

The flat rate is an interesting one. When I was a child, there was a flat rate of travel on the bus for young people and everybody just paid the same amount; you just got on and you paid the same amount whatever distance you went. I do not know when or why that was changed. It will be interesting to see where the petition that we are working on at the front end ends up, then the whole business of transport probably needs to be revisited. I am just not sure that we can deliver one particular aspect.

Rona Mackay: COSLA is clearly—and understandably—coming at the petition from a budgetary point of view and the restraints on local authorities. I can understand that, but it would be worth while asking the Scottish Government for its views on the introduction of a flat rate and whether it would consider that that would be acceptable, because I do not think that we have gone down that road before. That would probably be the last-chance saloon for the petition, to be quite honest, because I do not think that the free travel that the petitioner is asking for is realistic, although I do have sympathy with that. We could ask about the flat rate.

The Deputy Convener: Clearly there are cost implications, as COSLA highlighted, but this committee would be failing in our duty if we did not explore the issue of a flat rate. Although there is an argument to close the petition, I think that we should further explore the issue of a flat rate. Do members agree to do that?

Members indicated agreement.

Local Housing Allowance Cap (PE1638)

The Deputy Convener: PE1638, by Sean Clerkin, is on “Local Housing Allowance (Bedroom Tax 2)”. When we considered the petition in June, we agreed to write to the Scottish Government and the Department for Work and Pensions. The UK Government has since dropped its plans to introduce local housing allowance rates to the local rented sector and the petitioner has informed the clerks that, on that basis, he wishes to withdraw the petition. Taking that on board, are we content to close the petition?

Members indicated agreement.

The Deputy Convener: I thank the petitioner for bringing the issue to the committee’s attention.

Active Travel Infrastructure Strategy (PE1653)

The Deputy Convener: PE1653, by Michaela Jackson, on behalf of Gorebridge Community Development Trust, is on active travel infrastructure. When we considered the petition in June, we agreed to write to the Scottish Government, Sustrans, Scottish Environment LINK and WWF Scotland. The Scottish Government’s written submission makes reference to a wide range of plans in place to support active travel and cycling in Scotland, including a new trunk road, walking and cycling strategy, which was due to be published in September. However, members may wish to note that the clerks were unable to source the strategy on the Transport Scotland website at the time of preparing the note for the petition.

The submissions received from Sustrans and the petitioner raised concerns that the Scottish Government’s target of 10 per cent of all journeys being taken by bike by 2020 is unlikely to be met unless a fundamental change is made to the way that infrastructure projects are designed. Suggestions made in the written submissions to improve the chances of the target being met include increased funding, amending the current approach to the appraisal of transport projects and establishing a legal framework for active travel in infrastructure projects. Do members have any comments or suggestions on further action?

Brian Whittle: The Scottish Government submission says:

“The Trunk Road Cycling Initiative aims to ensure that our major roads projects give careful consideration to suitable provision for all road users”.

As you will be aware, I am quite involved in the A77 upgrade and the Maybole bypass. One question that I asked the minister was whether provision was going to be made for active travel,

as currently there is none. The Scottish Government submission is contradictory.

I certainly would like to explore that further, because I feel quite strongly that the petition is going along the right lines. If we want to future proof infrastructure projects and we want 10 per cent of journeys to be made by bike, we have start having joined-up thinking. I would certainly like to question the Scottish Government on that. I also note that we did not manage to find the strategy on the website and I would certainly like to inquire where it is.

Michelle Ballantyne: I agree. We should write back to the Government and ask it just what its position on a legal framework is.

The Deputy Convener: I think that the committee is agreed to proceed on that basis. The 10 per cent target has been raised quite a bit in the chamber and I have discussed it officially with pedal for Scotland and other bodies. As Stewart Stevenson said in our committee meeting the other day, it is always better to set a target high, because there is always a chance that you can reach it, rather than setting a mediocre target and not reaching it. There is a lot of merit in writing to the Government to seek further clarification. Do members agree that we do that?

Members *indicated agreement.*

Pluserix Vaccine (PE1658)

The Deputy Convener: We will move on to PE1658 by Wendy Stephen, on compensation for those who suffered neurological disability following administration of the Pluserix vaccine between 1988 and 1992. At our first consideration of this petition in June, we heard evidence from the petitioner and we agreed to seek the views of the Scottish Government and, in light of the historical nature of the issues raised in the petition, to seek the views and further background contextual information from the Medicines and Healthcare products Regulatory Agency and the Commission on Human Medicines. Submissions from the Scottish Government and the petitioner are included in the papers that members have received from the clerk.

The Scottish Government notes the historical context and states that it has no plans to set up a scheme, as suggested by the petition, on the basis that the issues raised in the petition, including the safety of medicines, the policy on compensation for vaccine damages and the administration of the vaccine damages payments scheme and the policy for payments under that scheme are all reserved to the UK Parliament. The Scottish Government suggests that the committee may wish to contact the DWP as the body responsible

for administration of the vaccine damages payments scheme.

The petitioner expresses her understanding that any payment under the vaccine damages payments scheme is not the same as compensation and says that by referring to the scheme as compensation, the Scottish Government is causing confusion. She considers that in its submission, the Scottish Government acknowledges the damage caused by the Urabe-containing Pluserix vaccine. She refers to examples of other injuries and disabilities that pre-date devolution, including hepatitis C, thalidomide and exposure to asbestos. She considers that those conditions have been acknowledged and compensated, noting in particular the Damages (Asbestos Related Conditions) (Scotland) Act 2009. The petitioner considers that, in her words, it is “entirely unacceptable” for the Scottish Government not to set up a scheme for ex gratia payments, as called for in her petition, given the damage caused by the vaccine in this particular instance. Do members have any comments?

10:30

Rona Mackay: If I understand it correctly, neither the MHRA nor the CHM responded to our request for further information. We should ask them again if they would respond and we most certainly should write to the DWP, as the Scottish Government suggests, and see where we go from there.

Brian Whittle: I wonder how we close this loop. The petitioner suggests that the Scottish Government is being disingenuous or causing confusion or whatever around the idea of compensation. I do not know what the answer is or whether that is correct or not. How do we close that?

Michelle Ballantyne: Have we taken legal advice on that? You mention that we have been advised, but have we taken legal advice?

The Deputy Convener: No. We could certainly seek it.

Michelle Ballantyne: I think that it might be worth seeking legal advice.

Rona Mackay: The Scottish Government is clear that the matter is reserved. That would appear to be a fact, but the petitioner says that by using the word “compensation” the Scottish Government is misleading, so we need to explore that.

The Deputy Convener: Yes. We need to put that to the Scottish Government and ask it to respond to the petitioner’s comments.

Rona Mackay: Yes, I think so.

Brian Whittle: That could close that loop.

The Deputy Convener: That action is agreed. We will also write to the DWP and chase up the MHRA and the CHM for a response. Are we agreed?

Members indicated agreement.

Tick-borne Diseases (Treatment) (PE1662)

The Deputy Convener: We will move on to PE1662 by Janey Cringean and Lorraine Murray on improving treatment for patients with Lyme disease and associated tick-borne diseases. We first considered this petition in September, when we heard evidence from the petitioners, and agreed to seek the views of a range of stakeholders. The submissions received are supportive of the petition and discuss a range of issues around testing for, treatment of and education about Lyme disease. We have a wealth of information, which members have had the opportunity to read, which I will try to summarise as briefly as possible.

In relation to testing, the Scottish Government advises that the testing laboratory at Raigmore liaises with experts at Public Health England to ensure access to the most robust and scientifically justified testing regime available. However, the Scottish Government recognises that there are gaps in the effectiveness of the tests and notes that the NICE guidelines, which are expected to include consideration of the effectiveness of testing, are currently in development and will be considered by the Lyme borreliosis sub-group once published. That is expected to be in April 2018. The Royal College of General Practitioners in Scotland is represented on a group developing the NICE guidelines and adds that it is taking forward work with the University of Leicester on a new research method of blood tests. Lyme Disease UK and Lyme Disease Action refer to uncertainty and complexity and patients being caught in the middle due to the current limitations of National Health Service blood tests. Lyme Disease UK considers that testing should be extended and suggests upgrading the testing laboratory at Raigmore to a reference laboratory and extending its remit to cover all tick-borne infections. The Scottish Government notes that that is under consideration.

All the submissions acknowledge the need for greater awareness and education among both the public and professionals. The Scottish Government, Scottish Natural Heritage and the RCGP highlight a range of work being taken forward, including the development of professional resources such as podcasts and webinars and appropriate information resources on websites, including Health Protection Scotland. The RCGP

provides information about its e-learning course, which has registered over 2,000 users since its launch in September 2014, although the RCGP notes:

“It is difficult to measure the percentage of Scottish general practitioners who have completed the training, as the course is not restricted to a GP or Scottish-only audience.”

The petitioners indicate that they are encouraged by the general agreement among the responses that more needs to be done to tackle Lyme disease. However, they express their disappointment with the draft NICE guidelines, which they consider to be very narrow in scope. The petitioners welcome support for the suggestion of a specialist treatment centre and the argument for pilot specialist clinics and they also strongly support the elevation of the testing laboratory's status to a reference laboratory. The petitioners summarise the response with suggested actions that they indicate they would like to see taken forward within a Scottish national plan for tick-borne infections, similar to that developed in France. The petitioners also draw our attention to the French national plan.

That was a brief summary. Before members make any comments or suggestions for further action, I welcome Alexander Burnett, who has joined us. He has had a significant interest in this issue for some time. Mr Burnett, I will ask you to come in later, once we have had contributions from the committee members.

Brian Whittle: It is quite interesting that NICE itself is suggesting that there is insufficient quality of evidence. There is a recognition that more must be done. Given that NICE recognises that the current system is not robust enough and that its new guidelines are expected to be published in April 2018, I suggest that we defer further consideration until that point and see how NICE proposes to tackle the issue.

Rona Mackay: I agree. Given that it is a matter of months until we get the new guidelines from NICE, I am not sure that it would be productive for us to do anything until then, because we can consider where we go once we have seen those guidelines.

Michelle Ballantyne: Have we flagged those concerns to NICE?

The Deputy Convener: Yes.

Michelle Ballantyne: We did flag them, so NICE is aware. Obviously, we will have to see what it does. The draft guidelines were not great, but I hope that NICE will have revisited them. That is why I wanted to ensure that we have flagged our concerns. We will have to see what NICE publishes and I will be concerned if it does not

broaden the guidelines a wee bit, because Lyme disease is pretty awful.

The Deputy Convener: Yes. I will bring Alexander Burnett in.

Alexander Burnett (Aberdeenshire West) (Con): Thank you, convener. I also thank the petitioners for continuing to bring this very important subject to the committee.

It is very disappointing that we are having to wait until April to see something that we are expecting to be unsatisfactory. This subject has been discussed in the Parliament for some time. I think that the first records that we found of cross-party group meetings or events to highlight it were from 10 years ago. Clearly, since then no significant progress has been made.

The evidence is that, over four years, only 3 per cent of general practitioners have taken up the courses available. The disease becomes ever more prevalent and the risks to very important groups of people whom we are encouraging to use the countryside are increasing all the time. Those groups include children in school groups and on Duke of Edinburgh schemes, and an increasing number of walkers—I am sure that I do not need to go on at length about that. We are encouraging people to go out into the countryside and they are going back to urban areas, where the disease is not being recognised, and still very little seems to be done about it.

I understand that four months might not seem a long time to wait for the next stage, but if we are already expecting that next stage to be unsatisfactory, I think that it will seem like an awfully long time to the petitioners and those who have been campaigning with them. I would be disappointed if that was the only course of action. I am afraid that I do not know what else is within the remit of the Public Petitions Committee, but the petitioners have proposed, and suggested actions for, a Scottish national plan for tick-borne infections. I wonder whether the committee could push that in any way. I do not know how that would come about. Would it be by the committee requesting the Government to bring forward plans for such a plan?

Brian Whittle: Alexander Burnett made some good points there. At the very least, surely it is within our remit to be able to write to NICE with our concerns about the draft proposal and to say that we do not feel that it is tackling enough of the issue or its broader scope. That must be within our remit.

Michelle Ballantyne: I take on board what Alexander Burnett is saying about having to wait for NICE, but the point is that until we see what NICE writes, we cannot demand a change. It is a catch-22 situation, is it not?

We can say to NICE that it should be looking at this and it should be doing that, but the draft is not satisfactory and we need to see a satisfactory draft. However, we cannot make demands of the Government. We can highlight, as we have already highlighted, that the guidance needs to be reviewed, but the Government will say automatically, "We will see what NICE says". We are going to go around in circles until NICE publish. Once NICE has published, and indeed if, as you suspect, it is not satisfactory, we can say, "This is not satisfactory and we need to do something different".

Rona Mackay: I agree with that. The Government will not do anything until April, but there is some merit in writing to NICE again to say that the draft does not seem to be satisfactory and to ask it to take that into consideration before final publication? That might be worth while, and, although nothing concrete will happen until April, it is worth flagging up.

I know that we have probably done this, but it is worth saying to NICE that we have had this meeting and there are significant concerns about the guidelines, and perhaps it could take that into consideration because they are not finalised yet.

Brian Whittle: If we pre-empt NICE's publication of guidelines by suggesting that the draft publication is not what we were hoping for, it will at least know that the issue is not going away and, at some point, it will have to revisit it.

The Deputy Convener: Alexander Burnett, would you like to come back in?

Alexander Burnett: The delay until the NICE report is disappointing. It is, however, understandable and I think everyone will understand the committee's position. Can anything be done about pushing for those actions in the Scottish national plan?

The Deputy Convener: Again, it might be an idea to wait for the NICE guidelines to come out before that is pursued. Would you agree?

Rona Mackay: I do not think the Government would commit to that until it has seen the NICE guidelines.

The Deputy Convener: Yes. We are in a catch-22 situation. We have to wait until April until the NICE guidelines come out, but I share the petitioner's disappointment and members' disappointment with the narrowness of the current NICE guidelines. We certainly need to write to NICE to make sure that our views are on the radar before April 2018.

Michelle Ballantyne: Convener, if we are not going to get what we want from NICE, is it worth scheduling a meeting and ring-fencing the time to take evidence soon after the guidelines come out?

We could address the issue quickly and save the date for people we might want to take evidence from so that there is not then another delay when the guidelines come out and we have to schedule another meeting down the line. At least that way we are not letting it drag on any longer than it has to. It is really frustrating. None of us wants to have to wait until April, but I think there is a pragmatic realism in that. If we could concertina the process a wee bit by planning ahead—

The Deputy Convener: We can ask the clerks to take note of that and they can come back with a proposal for ring fencing some time for that evidence session. I agree with you 100 per cent that this has been dragging on for too long and it needs to be sorted, to coin a phrase. Are there any other comments?

10:45

Michelle Ballantyne: If we are going to plan ahead, it might be worth asking the petitioners who they think we should take evidence from, such as themselves and other individuals that they feel would be particularly relevant.

The Deputy Convener: The clerks will take that on board as a matter of course. Are we agreed with that course of action?

Members indicated agreement.

The Deputy Convener: I thank the petitioners for their response to this serious issue, which I have been following for a number of years. I look forward to making progress on it in the near future.

Mountain Hares (Protection) (PE1664)

The Deputy Convener: Petition PE1664 is a continued petition by Harry Huyton on behalf of OneKind on greater protection for mountain hares. At our previous consideration of the petition in September, we agreed to write to the Scottish Government, SNH, Scottish Land & Estates, the James Hutton Institute and the Game and Wildlife Conservation Trust. Members will note that some of the submissions received referred to the fact that SNH recently conducted a review of existing evidence on mountain hare populations. The findings concluded that evidence of a national decline in mountain hares is not conclusive, although north-east Scotland data shows a dramatic decline in numbers since 2003.

As there is no evidence of a long-term decline overall, the Scottish Government does not support a nationwide moratorium on mountain hare culls. However, the petitioner is of the view that, given the lack of evidence available, the unregulated and unmonitored killing of mountain hares should not be allowed to continue. SNH intends to address the status of hares on north-east grouse

moors through the new principles of moorland management guidance on sustainable hare management that is currently being drafted by the moorland forum. However, the petitioner raised concerns that there has been no consultation outside of the forum membership, or transparency about how the guidance is being developed. The Scottish Government also intends to set up an independently led group to examine how to ensure that grouse moor management is sustainable and compliant with the law, and that the control of mountain hares will be considered as part of the review. Do members have any comments or suggestions for further action?

Brian Whittle: The obvious point is the petitioner's concerns about the inability to participate in the development of the guidance. An obvious thing for me would be to ask the Scottish Government how it can allow contributions from the public on that guidance.

The Deputy Convener: Are we agreed on that?

Members indicated agreement.

The Deputy Convener: We are agreed to ask the Scottish Government what opportunities there might be for members of the public to contribute to the development of the principles of moorland management guidance and for more information about the scope of the independent group on grouse moor management in relation to the control of mountain hares. That is agreed.

New Petition

Adult Consensual Incestuous Relationships and Marriage (PE1681)

10:49

The Deputy Convener: Petition PE1681, on adult consensual incestuous relationships and marriage, is in similar terms to two previous petitions lodged by the same petitioner. The most recent petition was considered by us at our meeting on 15 September 2016. At that meeting, we agreed to close the petition on the basis that the Scottish Law Commission undertook a report on the issue as recently as 2007 and concluded that the majority view at the time favoured retaining the offence and the current definition. Do members have any comments?

Brian Whittle: I would close the petition.

Michelle Ballantyne: The question has already been asked and answered, so we should close the petition.

Rona Mackay: We should close the petition. I do not see any merit in it whatsoever.

The Deputy Convener: Okay, we are agreed to close the petition under rule 15.7 of standing orders on the basis that the Scottish Law Commission undertook a report on the issue as recently as 2007 and concluded that the majority view at the time favoured retaining the offence and the current definition. The petition is closed.

We have come to the end of consideration of petitions in public, although we have one further petition, PE1458, to discuss in private. In closing the meeting, I wish everyone a merry Christmas and a happy new year. I also take the opportunity to thank the clerks and all those who have worked behind the scenes to support the committee's work during the past year. Their assistance is greatly appreciated.

10:50

Meeting continued in private until 11:06.

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