



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# PUBLIC PETITIONS COMMITTEE

Tuesday 26 November 2013

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**PUBLIC PETITIONS COMMITTEE**  
**19<sup>th</sup> Meeting 2013, Session 4**

**CONVENER**

\*David Stewart (Highlands and Islands) (Lab)

**DEPUTY CONVENER**

\*Chic Brodie (South Scotland) (SNP)

**COMMITTEE MEMBERS**

Jackson Carlaw (West Scotland) (Con)

\*Angus MacDonald (Falkirk East) (SNP)

\*Anne McTaggart (Glasgow) (Lab)

\*David Torrance (Kirkcaldy) (SNP)

\*John Wilson (Central Scotland) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jackie Baillie (Dumbarton) (Lab)

Kyle Kelly (What About Us?)

Robert Watson (What About Us?)

Rab Wilson (Accountability Scotland)

Alan Wyllie

**CLERK TO THE COMMITTEE**

Anne Peat

**LOCATION**

Committee Room 1



## Scottish Parliament

### Public Petitions Committee

*Tuesday 26 November 2013*

[The Convener *opened the meeting at 10:01*]

### Decision on Taking Business in Private

**The Convener (David Stewart):** Good morning, ladies and gentlemen, and welcome to today's meeting of the Public Petitions Committee. As always, I ask everyone to switch off their mobile phones and electronic devices, because they interfere with our sound system. I register apologies from Jackson Carlaw.

The first item of business is to seek the committee's agreement to take agenda item 4 in private. Is the committee agreed?

**Members** *indicated agreement.*

## New Petition

### Confidentiality Clauses (NHS Scotland) (PE1495)

10:02

**The Convener:** Agenda item 2 is consideration of three new petitions. As previously agreed, the committee will take evidence from each petitioner.

The first new petition is PE1495, by Rab Wilson, on behalf of Accountability Scotland, on the use of gagging clauses and agreements with national health service staff in Scotland. Members have a note by the clerk, a Scottish Parliament information centre briefing and the petition.

I welcome the petitioner, Rab Wilson, and thank him for coming along. I invite Mr Wilson to make a short presentation, which should last for a maximum of five minutes. That will be followed by questions from myself and then my colleagues.

**Rab Wilson (Accountability Scotland):** Good morning.

If you want to keep something confidential, what do you do? It is easy—you do not tell anybody. Do you need a legal constraint imposed on you by your employer to do that? No. Yet thousands of people in Scotland and hundreds in our NHS have been gagged in that way against their will. How can that be allowed to happen in a free society? Why has the automatic use and insertion of gagging orders by the central legal office become the norm in compromise agreements? Is that a help or a hindrance to openness?

I am calling for an outright ban on gagging orders, confidentiality clauses and compromise agreements in the NHS in Scotland. If NHS boards have nothing to hide and their reputations are beyond reproach, why do they need to hide behind gagging clauses? The workers have nothing to hide, but in a free society they are legally constrained and gagged from speaking the truth. What kind of topsy-turvy world are we living in?

Technically, the gagging orders do not prevent people from raising genuine safety concerns about events in the NHS that are of the greatest public interest, but they sure as hell scare people from speaking publicly about those vital matters. It is a fundamental breach of an individual's human rights—and, by extension, those of their family—to do that, yet it is common practice in Scotland.

The belated insertion of clause 1.3 into annex A of the NHS compromise agreement, which happened only a few months ago, supposedly gives workers the option of making a protected disclosure. Can any member of the committee name a single person in the NHS who has

successfully made a protected disclosure? Providing the option of a protected disclosure is like saying to a starving man who needs bread that he can have all the bread that he wants as long as he can get over to the next valley, which will mean getting over the top of Mount Everest. That is how difficult it is for a worker to make a protected disclosure. My case epitomised the circumstances in which a protected disclosure should automatically have been allowed, but my union, Unison, would not support me in making one. If my case cannot be allowed a protected disclosure, what case can?

I have no problem with people making compromise agreements to terminate their employment to both parties' satisfaction, but there should be no automatic insertion by the central legal office of a confidentiality clause. How can the Scottish Parliament continue to condone such a fundamental abuse of human rights and freedom of speech? A recent *Health Service Journal* article stated that, between 2009 and 2012, 98 per cent of compromise agreements in the NHS in England had confidentiality clauses inserted into them, whether or not the employees concerned wanted one.

Over the past five years, there have been 697 compromise agreements in Scottish health boards. In England, the average cost of such agreements was £29,000 each. If we extrapolate from those figures, we will see that the invisible cost to the taxpayer of financing pay for compromise agreements in Scotland has been more than £20 million. The detail itself is hidden by confidentiality clauses, but this is a shocking abuse of taxpayers' money.

No guidance or assistance was available to me to make a protected disclosure. As I said, my union refused to support me, despite its being aware that I had uncovered a huge national scandal. Surely the provision of such guidance and assistance should be a mandatory duty of NHS employers. Mainly as a result of my case, a national whistleblowers alert line has been implemented in Scotland. However, serious reservations that I have flagged up about the line have been ignored. Had the ISO 9000 quality management system been adopted, as I wanted, it would have solved everything in the NHS but, no, the cheapest option was chosen, and the reports that I am getting about the alert line's effectiveness are far from encouraging.

The line is run by Public Concern at Work, whose big review of whistleblowing is coming out this week. This is kind of how it works: if someone calls up, saying, "Mrs Hen here. That bad Mr Fox has been killing all my chicks," Public Concern at Work will say, "Certainly, Mrs Hen. I suggest you take the matter up with Mr Fox." That is fantastic—

that is how Public Concern at Work does its job. When someone phones up to complain about some major bad thing that is going on, it refers them back to their employer, which is the last place that they will want to go.

The basic principle should be that people who have challenged patient care issues should not be subject to threats of intimidation or attempts to turn their concerns into an employment issue. Time and again, people get letters from Government ministers saying that the matter is between them and their employer or that it is an employment issue—which is just rubbish—and then they are forced to sign a confidentiality agreement. Following the National Audit Office exercise, we have no idea just how many of those agreements exist and we have asked for a retrospective lifting, which has not been granted.

Patients First, the NHS whistleblowers group led by Dr Kim Holt, who will be speaking in the Parliament building tomorrow evening, is seeking an inquiry—a truth commission—into the whole business. We are not going to stand for this sort of atrocious corporate bullying any longer. Those who leave their employment in such circumstances become ghosts or pariahs to be shunned by their former colleagues, who are wary of being seen or socialising with whistleblowers, and colleagues are left in the dark about what happened to such people, as their stories are buried by their employers.

Whistleblowers should be celebrated and allowed to tell their complete stories in filmed interviews that are then published on NHS board websites. Then, and only then, might we begin to see some real transparency, openness and honesty in our NHS. While confidentiality clauses remain a normal part of such severance agreements, employees will remain vulnerable. Unions have been complicit in the making of those agreements; indeed, pretty much all the unions are involved in what is tantamount to a cover-up with the use of confidentiality clauses—

**The Convener:** Excuse me, Mr Wilson, but you have come to the end of your five minutes.

**Rab Wilson:** Okay.

**The Convener:** We have to allow time for members' questions and of course we have other petitions to deal with.

Thank you for your presentation. In your view, do gagging clauses breach the European convention on human rights?

**Rab Wilson:** I have an email from Carole Ewart, the chair of the human rights consortium Scotland, stating that there are several issues that, in her mind, seem to contravene human rights legislation.

**The Convener:** If you have not already supplied us with that email, can you please provide a copy?

**Rab Wilson:** Yes. If you want a copy of any of this stuff, I can photocopy it and leave it with you.

**The Convener:** In preparing for the discussion, I noticed a quote from the Cabinet Secretary for Health and Wellbeing, who has basically said—I am paraphrasing here—that any confidentiality or gagging clauses are between NHS boards and employees and are not a direct matter for Government. What is your view on that? Obviously, you had a difficult experience with your health board, but do you have direct experience of other health boards in Scotland that have gagging clauses with their employees?

**Rab Wilson:** As I said, between 2009 and 2012, there were 697 compromise agreements in Scotland and I believe that almost every one of them contained a gagging clause. They are used by all health boards in Scotland.

**The Convener:** Is any ordinary entry-level member of staff in any health board in Scotland required to sign one, or are they used specifically where a senior employee is leaving and has to sign a compromise agreement?

**Rab Wilson:** It would apply to any worker who is caught up in circumstances in which a compromise agreement needs to be reached. A nursing assistant or porter, say, might blow the whistle on certain nasty business and, as a result, their position might become untenable. The union might then thrash out with the employer a compromise agreement for the employee to leave their employment. The employee would be given a payment, which is taxpayers' money. Almost every compromise agreement has a gagging clause preventing the employee in question from speaking out.

Back in May—very late in the day—paragraph 1.3 was shoehorned into annex A of the NHS compromise agreement. It says:

“For the avoidance of doubt, the Employee shall not be prevented from making a ‘protected disclosure’, as defined in Sections 43A-H of the Employment Rights Act”.

However, out of the 697 compromise agreements that have been reached in Scotland over the past three years, there have been four protected disclosures. What the hell is going on? Why can the people concerned not speak freely about this?

The compromise agreement also says:

“The terms of this Agreement are confidential to all parties and all parties agree that all matters arising out of this Agreement and all matters relating to the termination of the Employee’s employment”—

blah blah blah—

“will remain confidential”.

Even the employee’s immediate family could be brought into this. If family members breach an agreement by revealing stuff that has been divulged to them by a husband or wife, they can be brought to account under the law. By extension and by proxy, they, too, get gagged. It is a total breach of their human rights.

**The Convener:** Thank you for that answer. We will move to questions from the committee.

10:15

**Chic Brodie (South Scotland) (SNP):** Good morning, Mr Wilson. I live in Ayr and, having been subject to NHS Ayrshire and Arran’s treatment, I congratulate you on your work there. The consequent actions by the Government and the health boards are attributable to your work.

I return to the 697 compromise agreements. We agree that the individual frequently requests the inclusion of a confidentiality clause, which is developed under guidance from the central legal office. How many confidentiality clauses in the 697 compromise agreements were generated by the employee rather than the employer?

**Rab Wilson:** I have a letter from the central legal office about gags, which says that it does not personally insert the gagging clauses. The standard compromise agreement contains a confidentiality clause, so the legal office has no say in that.

**Chic Brodie:** Is it not the case that NHS Scotland’s central legal office carried out a review of confidentiality clauses and developed a revised form of wording that explicitly made clear that an individual’s right to raise protected disclosures is protected, whether or not they insert the clause of their own volition?

**Rab Wilson:** I do not find that to be the case because, out of 697 agreements in the past three years, there have been only four protected disclosures. That tells you that some of my friends who are with me today, who have been gagged, are terrified to speak out because of the consequences. They fear that they will be taken to court and maybe that their pension or any payment that they have been given will be removed from them. A culture of fear exists in our NHS.

**Chic Brodie:** Can I stop you on that? It is quite important. Things have happened such as the Public Interest Disclosure Act 1998 and the Employment Rights Act 1996. Actions have been taken by the Government, instructions have been given to health boards and money has been made available to help to change the culture of bullying. We are talking about culture. We can legislate as much as we like, but we are talking about

management culture and what needs to be done there.

I will protect everyone's right to be open and say what they think and think what they say in such circumstances. A culture of secrecy and bullying is totally unacceptable—I accept and support that view. However, despite all the actions that have been taken, you have still come to the table suggesting that things are not happening. Is it not the culture of management, which we are trying to change, that is really at fault?

**Rab Wilson:** Of course. A huge part of the problem is the culture of secrecy. The culture is all about protecting the organisation at all costs and to hell with the workers—they can go to the wall. They can be paid off and gagged with gagging clauses because, at the end of the day, the culture is to protect the organisation. That is what it is all about, and that needs to stop.

**Chic Brodie:** However, the regime has been changed. Action has been taken by the Westminster Government and by the Scottish Government to attempt to get rid of all the problems, if not delete them. All the legislation and assistance is in place. How do we change what is now a cultural problem?

**Rab Wilson:** For a start, we should get rid of the confidentiality clause, because it is total nonsense. There is a huge dam of truth and horrible things—

**Chic Brodie:** Mr Wilson—

**Rab Wilson:** Can I please make my point? There is a huge dam of nasty, horrible things that have been happening in the NHS, and this document is creating the log-jam and preventing information from becoming public knowledge. It needs to go, and then people will be able to speak freely and without any fear of being taken to court for speaking the truth about bad things.

**The Convener:** If you are referring to a document, will you describe it for the record, so that we understand which document you are referring to?

**Rab Wilson:** I am referring to annex A—the style revised wording from the NHS compromise agreement of May 2013.

**Chic Brodie:** Do you accept that the cabinet secretary has already stressed to the health boards that he expects them to ensure that confidentiality clauses and non-derogatory statement clauses are not used to suppress the reporting of concerns about practice in the NHS in Scotland? That has been made abundantly clear not just once but several times.

You said that we should get rid of the confidentiality clause. My question for you is: what

happens if an employee wants a confidentiality clause in the compromise agreement? How do we cover that situation?

**Rab Wilson:** It would be up to an individual to decide on that but, as I said at the start, surely if a person wants something to remain confidential, they keep it confidential and do not share it with anybody. That is what any of us would do.

**Chic Brodie:** We cannot open this on one side and not on the other. I agree with the intent, but we have to protect employees who want confidentiality clauses. Should they not have the right to have such a clause written into a compromise agreement?

**Rab Wilson:** What you are saying is like saying that Alex Neil is telling the foxes to take better charge of the chicken coop. The boards have been left to their own devices for years and years and they have done nothing, despite being told again. The ability to make a protected disclosure existed before that; it has been there since 1996. Why did we have to put in another clause this year to remind boards of what to do? They have not been doing it for years.

**Chic Brodie:** You have played a significant part in this. Do you accept that it takes time to change the culture of management? I believe that it is changing. Do you agree or do you think that it is stuck? I would hardly use the fox and chicken analogy, because we want to ensure that everybody is a fox and a chicken and not one or t'other, so that they understand that openness and transparency are key in any public organisation—or indeed any organisation. Do you detect any change or are you saying that we are stuck in 1996?

**Rab Wilson:** I could ask a person who is here to read a short statement of their experience, if you would like to hear it.

**The Convener:** No. We are happy for any of the people in the gallery who are supporting you to submit any evidence and we would be happy to look at that, but only you are before us today.

**Chic Brodie:** Fundamentally, I am asking you whether you are saying that the NHS Scotland partnership information network guidance is not working. Are management—you can be selective if you are not including all of management—choosing to ignore the guidance, the instruction and the law of the land?

**Rab Wilson:** They always talk about openness and transparency—they have gone on about those things for years—but they still seem to be lacking. People are still scared to speak out.

Nurses phone me. I regularly get phone calls from people who are being bullied in the NHS and who do not know where to turn. They do not feel



that they can go to their bosses and they phone me to ask me where they can go. That is a sad indictment of management in the NHS.

**Chic Brodie:** I agree. I accept that there are circumstances in which people are afraid of the hierarchy of management. That is a management problem. Management have to be clear that there has to be total transparency.

Thank you for the way in which you have answered my questions. I will ask one last question. Do you accept that, sometimes, there are allegations that are unproven? What would you do in those circumstances? How would you recommend that we clarify that an allegation without evidence has to be pursued?

**Rab Wilson:** Can you give me an example?

**Chic Brodie:** No, I cannot. I asked the question because, throughout my business life, customers and employees have alleged things and a lot of time has been spent on going through them, as should happen. We accept that there are sometimes allegations that are not proven.

**Rab Wilson:** As I have said, I have received phone calls from people who have been bullied. I listen to their stories, which seem to have a ring of truth. Channels should be available for them to pursue matters.

As I have said, the confidential alert line seems to be very poor. When people phone it, they are given a lot of waffle and referred back to their employer. What help is that? It is useless.

**Chic Brodie:** Are you telling me that the people on the line are not trained to give answers and pay proper compassionate attention to the questions or issues that are raised?

**Rab Wilson:** My experience and the stories that I have been told by nurses and other people who have been employed in the NHS show that people do not get the support that they need.

**John Wilson (Central Scotland) (SNP):** Thank you for coming to the meeting and for your petition. You said that staff do not know who to turn to for support and how to take forward issues that have been raised by compromise agreements. In your submission, you commented on the role of the unions. In respect of their working practices, the majority of NHS employees are protected by or are members of a trade union, the British Medical Association, the General Medical Council in Scotland or whatever. Do you feel that the unions and professional bodies are not protecting their members from the compromise agreements that NHS boards are forcing on them?

**Rab Wilson:** Unions are far too willing to immediately go along with a compromise agreement and simply get a quick deal done for

someone to leave quietly by the back door, and they do not want to fight people's cases. They should fight a lot harder for workers' rights in those circumstances, rather than just come to a cosy deal that suits them and the employer but ruins the worker's life. When someone leaves, they are very unlikely to be employed again because of such things. The unions should fight a lot harder for those people.

**The Convener:** As no other member wishes to ask Rab Wilson a question, I will ask a final question. What explanation, if any, have you had from health boards about their use of confidentiality clauses?

**Rab Wilson:** I can go only by the available figures that have come to light through various freedom of information requests, which are usually submitted by MSPs. MSPs have done great work to unravel what is going on and get to the nub of the figures and the information that are needed. Through those freedom of information requests, I have got to know the numbers that relate to compromise agreements and the number of confidentiality clauses therein.

As I have said, we can extrapolate the public money that is being frittered away on those compromise agreements. The figures are out there. I have some basic figures, but what individual health boards do and why they do it are a bit of a mystery.

**The Convener:** I re-emphasise that, if you or any of your colleagues in the public gallery have information that you would like the committee to see, please ensure that the committee has a look at it, because it is important that we make decisions that are based on the fullest possible information.

As you probably know, we now go to the summation stage, when the committee decides on the next step for your petition. We have therefore finished the evidence session, but I would like you to stay for the next stage.

The committee has various options, but I think that it is important that we seek further information from the Scottish Government about the petition. It is also important to consult the Scottish health council—I understand that it is a committee of Healthcare Improvement Scotland—which plays an important role for the consumer voice in health services. As always, it is up to the committee to make the final decisions on the petition.

10:30

**John Wilson:** I suggest that we also write to Unison, the General Medical Council, the Royal College of Nursing Scotland and the British Medical Association to seek their views. It is not

just people in the front line but consultants and other staff who are affected by compromise agreements, so it would be useful to get those organisations' views on the use of compromise agreements.

**The Convener:** That is a good point.

**Anne McTaggart (Glasgow) (Lab):** I thank Rab Wilson for his evidence. I think that we should write to Public Concern at Work to get its view on the petition.

**David Torrance (Kirkcaldy) (SNP):** I am happy to go along with what John Wilson and Anne McTaggart suggested.

**Chic Brodie:** I support what the convener suggested but, given the requirement for evidence, perhaps we should ask the national confidential alert line and Healthcare Improvement Scotland to produce monthly reports. Perhaps we should also consider asking Audit Scotland to review that process after, say, a year to see what is happening in health boards across Scotland.

**Rab Wilson:** I believe that—

**The Convener:** I am sorry, Mr Wilson, but we are now at the stage of the committee making a decision on the petition.

**David Torrance:** I go along with all the recommendations.

**Anne McTaggart:** Could the committee gain some information from the United Kingdom Government?

**The Convener:** Sure. We could write to the Secretary of State for Health or the relevant health authorities in Westminster about the petition.

**Angus MacDonald (Falkirk East) (SNP):** I am aware that the Cabinet Secretary for Health and Wellbeing, Alex Neil, announced at the Scotland Patients Association's conference in June that £200,000 would be made available to health boards to establish other measures to tackle bullying and harassment in NHS Scotland. However, I find it curious that only six boards made bids for the funding: NHS Ayrshire and Arran, the Golden Jubilee hospital, NHS 24, NHS Greater Glasgow and Clyde, NHS Tayside and Carstairs. Perhaps it would be worth contacting them to ask why they bid for funding. We might see in the responses whether the funding has had any impact.

**The Convener:** That is a good point. Do members have any other options to suggest?

**Chic Brodie:** If we are writing to the six boards that Angus MacDonald suggested, I would like to know what management training they are doing on the subject to which the petition refers. I do not want to know how much they spend; I want to

know how they establish the outcome that eliminates the scar from the relationship between management and employees.

**The Convener:** Health boards have an important role in that regard, but there is guidance from the Scottish Government on the issue as well, through chief executive letters or—

**Chic Brodie:** I understand that.

**The Convener:** I am just trying to identify who you want to write to. Is it the Scottish Government?

**Chic Brodie:** The problem to which the petition refers will be solved only at the coalface. Organisations including the Scottish Government can participate in addressing the problem, but it is primarily one of management. The culture has to be changed as quickly as possible.

**The Convener:** Do you wish us to write to all the health boards in Scotland?

**Chic Brodie:** Yes.

**The Convener:** Do members agree with the courses of action that we have identified, which involve doing a number of tasks?

**Angus MacDonald:** If we are writing to all the health boards, we must differentiate the six boards that bid for the funding.

**The Convener:** Yes. We must distinguish between the six that went for the funding and the others. That is a fair point. I thank committee members for their recommendations.

Mr Wilson, you have probably identified that we are enthusiastic about your petition. We will pursue the issue that it raises and will do as much homework as we can on it. We will consider the petition again at a future meeting when we have all the raw material back from our written requests. The clerks will keep you up to date with developments. I encourage anyone who is associated with your petition to write to the committee with any additional information that they wish us to know about.

Thank you for presenting your evidence in such a forthright way. Clearly, you have been through a difficult experience, which was reflected in your statement. We appreciate your honesty in being up front with the committee.

I suspend the meeting to allow Mr Wilson to leave.

10:35

*Meeting suspended.*

10:37

*On resuming—*

**The Convener:** I have just been informed that the witnesses for the next two new petitions have been delayed in traffic, so my intention is that we will consider those petitions once they arrive. With the committee's permission, I will jump to agenda item 3, which is consideration of current petitions. Do members agree to that?

**Members** *indicated agreement.*

## Current Petition

### Youth Football (PE1319)

**The Convener:** The first current petition that we will deal with is PE1319, by William Smith and Scott Robertson, which is on improving youth football in Scotland. Members have a note by the clerk and the submissions.

I refer members to my entry in the register of members' interests—I am a trustee of Inverness Caledonian Thistle Football Club. In addition, I have received information from Iain Gray and Johann Lamont, who have an interest in the petition. A number of members have a particular interest in the football side of the petition, but I think that, in sum, the petition is about the effective employment of young people. William Smith and Scott Robertson have done a lot of good work on the issue.

Before we consider our next steps in dealing with the petition, I invite members' views on the options for action.

**Chic Brodie:** I declare that one of my staff—or, rather, my contracted staff—is a youth academy coach for Hibernian FC.

**The Convener:** Thank you for that.

Does anyone want to suggest some possible ways forward on the petition?

Scotland's Commissioner for Children and Young People, Tam Baillie, has done a lot of work on the issue and has asked to be kept informed of the petition's progress. I think that he gave evidence to the committee on the petition in the previous session of Parliament.

Members will know that Scottish football has been reorganised. The chief executive of the Scottish Professional Football League, which is one of the key organisations in Scottish football, is Neil Doncaster, who I understand is now also a board member of the Association of European Professional Football Leagues, which plays an important role.

I think that we should invite some of the key players in Scottish football and the children's

commissioner to speak to us about the petition, which goes much wider than football and raises issues to do with the European convention on human rights, employment and fair movement of trade. The other side of the coin is that we all understand that it is vital to develop and build up facilities for youth football and that the clubs that invest in that need to get some return. We must look at both sides. I suggest that we invite some of the key players to come along to the committee. It has been suggested that we should ask Malcolm MacGregor, who is a well-known advocate who has done a lot of work on sport, to attend. It is up to committee members to decide whether they feel that that is an appropriate response. I have quite strong views on that, but I appreciate that members might have different views.

**Chic Brodie:** I agree. This is a true story. I was talking to someone who is a scout for one of our clubs and for a club down south. The sums of money that are being paid for 12-year-olds and even 10-year-olds—they are not paid directly, of course—are absolutely unacceptable, especially given the way that Scottish football is going despite its reorganisation. According to this morning's headlines, there is a collision waiting to happen on the funding of Scottish football. I do not see why there should not be an appropriate mechanism for encouraging children to play football that does not treat 12-year-olds as if they are professional footballers.

I agree that we should get some meaningful advice on the way forward from those who are involved. I certainly think that those who administer Scottish football should be invited along to give information.

**The Convener:** Thank you for that.

I omitted to mention that it has been suggested that we should invite Andrew McKinlay, who wrote back to us, who is the director of governance and regulation at the Scottish Football Association, as he has a lot of experience in this area.

**John Wilson:** Convener, I seek clarification of your proposal to hold an evidence-taking session. The committee heard from a number of witnesses in January 2011. In our briefing, we are advised that a paper has been produced that will be put to the SPFL board in January 2014, so perhaps we should hold off until that paper has been presented to the board. At that point, we could invite a number of people to discuss the implications of the paper, which—given the recent history of the SPFL in getting clubs' agreement on particular issues—may or may not be finally agreed.

I am concerned about some of the sums of money that are changing hands. As Mr Brodie said, it is not the young people themselves—who,

in many respects, are still children—who are being reimbursed. Their parents are being paid to tie or indenture them to a club. When we discussed the petition previously, we discovered that some young people are losing out on a football career because they cannot play for a school team or a local youth team, as the club will not let them do that.

We should wait until after January 2014 to find out what suggestions the SPFL makes before we invite the individuals whom the convener named to a round-table discussion on the future of youth football in Scotland and how the clubs are restricting the ability of young players to play football.

**The Convener:** That is a sensible point. It is important that we take on board the timescale involved and the fact that the paper will go to the Scottish Premier League and the SFA in January 2014. I am perfectly happy to wait until that paper is discussed before we have a round-table event.

10:45

**Chic Brodie:** One of the recommendations in our paper is that we invite a head of youth from a club other than an old firm club. I do not know why the old firm clubs would be excluded, as they have a significant impact in the corridors of power of Scottish football because of, for example, their financial clout.

We have just talked about openness and transparency. It would therefore be slightly disingenuous not to look at the issues raised in the SPL's letter from earlier this year, which states:

"You seem to be advocating a system whereby clubs would be free to register young players without the payment of any training contribution."

I want to understand what that training contribution is for. Given the sums of money that I have heard of, it must be some training.

**The Convener:** The suggestion to involve a head of youth from a professional club that is not one of the old firm came from the petitioner. I understand why that recommendation was made, but I am totally relaxed about involving the old firm as well as other teams. It is a matter for the committee to decide.

**Anne McTaggart:** At this stage, I disclose that I am totally uninterested in football. However, I am extremely keen to listen to clubs and receive more information about their practices.

As John Wilson mentioned, it would be a much better idea to wait until after January 2014, when we will have received the report, before we hold a round table. We need to have and benefit from that round-table experience in which knowledge and practice can be shared. We must be educated

on the matter before we make any decision on the petition.

**Angus MacDonald:** I agree with John Wilson's suggestion to have a round-table discussion. I am sure that there are a number of viewpoints, and the more people that we can get in to discuss the issue, the better. John Wilson's other suggestion that we wait until early next year before doing that is a good one.

**The Convener:** Are members content to go ahead on the basis of the timescale that has been suggested by John Wilson and to involve the various individuals who have been suggested?

**Members indicated agreement.**

**John Wilson:** Chic Brodie mentioned the old firm. They appeared before the committee in January 2011 and we received criticism from other clubs that we had concentrated on the old firm. I am aware that Hibs, Heart of Midlothian FC and other league teams have very active youth programmes. For example, Falkirk FC has a programme for those aged four and upwards—it may even be for those who are younger. We should try to widen out the discussion. I therefore suggest that, given that Hearts apparently has an active youth development wing, we should bring that club and one or two other clubs before us, too. Although the old firm have a great deal of influence, it would be useful to find out what is happening and what restrictions may be in place elsewhere. I have heard that some young people who initially sign for a major club find it more difficult, at a later stage, to sign for other clubs that want to participate in their development. I suggest that we involve Hearts or Hibs, and possibly Falkirk, to find out how their youth development programmes fit in with the overall issue that the petition deals with.

**Chic Brodie:** The rationale for not excluding one of the old firm is that the spectrum of finance and the financial gap are huge in Scottish football. It would be interesting to involve Hibs and Hearts, although how relatively well-off or not they are depends on which newspaper you read. We need to look at the finance gap. In the round-table discussion, which I agree that we should have, we will probably find that those at the more lucrative end have a totally different development policy and set totally different expectations for children, both for boys and, increasingly, for girls—not perhaps from Inverness Caley, but from teams that are not in the premier league.

## New Petition

**The Convener:** We have Falkirk FC on our list.

Thank you. The committee's view is clear. We will go ahead and get that actioned as soon as the January meeting takes place.

### Bedroom Tax Mitigation (PE1496)

10:50

**The Convener:** We will now return to our consideration of new petitions. PE1496, from Alan Wyllie, on behalf of the no2bedroomtax campaign, concerns bedroom tax mitigation. Members have a note by the clerk, the Scottish Parliament information centre briefing and the petition. Jackie Baillie has expressed an interest in the petition, but I am not sure whether she is able to attend the meeting.

I welcome Mr Wyllie to the meeting. I understand that you have had some transport problems, Mr Wyllie, but I am glad that you are here. You may make a short presentation before we move to questions.

**Alan Wyllie:** I represent the no2bedroomtax campaign, which is a modern, organic campaign that incorporates online stuff and traditional political activism. We have three main objectives, which can be split into two groups: political and civic. We help and support people who are affected by the bedroom tax and other welfare reforms. Because we are online, people can contact us directly and we function as a hub that can direct people to the experts who can help them. Our political aims are to mitigate the bedroom tax and, ultimately, to end it.

At present, we estimate that there is £35 million in the system to mitigate the bedroom tax, but there is a shortfall of £53 million. That shortfall has led to inconsistencies between local authorities when dealing with discretionary housing payments, which has meant that some of the most vulnerable tenants are left without any support. Shelter Scotland says that the money in the system will help seven out of 10 Scottish tenants. I am here on behalf of the three in 10 who are not getting support from the councils or other sources.

The money that is required would cover the extra rent that tenants must pay due to the bedroom tax. It would result in every tenant in Scotland being protected from the bedroom tax. It would also protect the budgets of housing associations and local authorities. For example, Renfrewshire Council estimates that it will lose £1.8 million in revenue as a result of the bedroom tax. That issue could be resolved by doing what the petition calls for.

In April, when the bedroom tax came in, there was a national uproar and a lot of people did not know what to do. There are a lot of scared people out there. Even now, when people on the street ask us for help and we ask whether they have

applied for a discretionary housing payment, they say, "I don't know—what's that?" In Edinburgh, 50 per cent of those who are affected by the bedroom tax have not applied for any help. That shows that tenants are scared and, because they are scared, they are not interacting with their landlords. That can cause problems down the line.

When I speak to people, they talk about their fear of evictions, but the bigger issue is debt. Rent arrears can result in people being taken off the housing list—I know that that has been looked at. A lot of people are just scared that those debts will hang over them. This petition would get rid of those debts.

**The Convener:** Thank you for your presentation. Do you have any figures for the level of rent arrears that are attributable to bedroom tax for all the local authorities in Scotland, and for social landlords?

**Alan Wyllie:** The Convention of Scottish Local Authorities did some research and came up with a figure of £20 million for local authorities. I do not think that I have the figures on me. I apologise.

**The Convener:** That is all right. I did not necessarily expect you to have chapter and verse for every local authority. If you have those figures, it would be useful if you could send them to the committee.

Your petition mentions that 79 per cent of affected households include a disabled person. I suppose that, at one level, that might be expected, but the number is extremely high. That suggests that many people who are very vulnerable will be adversely affected.

**Alan Wyllie:** As you say, the bedroom tax affects some of the most vulnerable people. There is support out there but it is not enough to help everyone. The petition would result in support for every tenant.

The bedroom tax attacks the disabled community in particular. Citizens Advice Scotland research shows that 80 per cent of affected households have a disabled person in them. That is why a lot of people are saying that they are against it, even though it does not affect them directly. The people whom it affects are quite isolated and vulnerable. That is a vicious aspect of the bedroom tax.

**The Convener:** You point out in the petition that some local authorities have a no-eviction policy. That is important, but the wider issue is that mitigation is required because local authorities have a general duty to reduce rent arrears—clearly, that policy was implemented before we had the bedroom tax. Do you agree that a comprehensive policy is required, not just a single-tier policy?

**Alan Wyllie:** There needs to be uniformity across local authorities in how they deal with the whole shebang. Some local authorities regard the disability living allowance as income, but others do not, and that means that some people are barred from getting a discretionary housing payment because they are disabled. We need a uniform policy.

On the no-evictions policy, I am not a lawyer but I know that people are really scared of being evicted. That is what they fear.

**The Convener:** We referred a similar petition that we received earlier this year to the Welfare Reform Committee because it is actively considering the bedroom tax. The Public Petitions Committee is not intended to be a simple referral organisation. As you probably know, we try to do as much as we can for each petition, except when another parliamentary committee is considering the issue as part of its work programme. Although that is a decision for the committee to take, and we are not quite at that stage yet, what is your view on the Welfare Reform Committee looking in more detail at your petition?

**Alan Wyllie:** There is some urgency. We are getting to the time of the year when it gets cold, and energy and food prices are skyrocketing. The bedroom tax is a line in the sand—it is the straw that will break the camel's back, as they say. People are struggling, so there needs to be some urgent action to help immediately.

**The Convener:** Thank you. I now bring in my colleagues.

**Chic Brodie:** I have had the pleasure of sharing platforms with Mr Wyllie for six or seven months now, and very constructive that has been. We share the view that the bedroom, or underoccupancy, tax is iniquitous and should be removed—and it will be removed if we have the power to do so.

Mr Wyllie, after the last budget, you indicated to me that you were thrilled that we got the £20 million to mitigate the effects of the bedroom tax. You know that the Scottish Government is limited in what it can do in this case because of the powers that relate to welfare reform, which are reserved.

**Alan Wyllie:** We live in a time when politics is quite dour and dire and sometimes outright poisonous, so good acts have to be applauded. Shelter Scotland asked for an increase in DHP and the Scottish Government increased it the next week. That should be applauded. At the time, I said that the Scottish Government had stepped up to the plate but, to extend that analogy, it did not hit a home run or get to third base. What the Scottish Government has done has been really

good, and it has been proactive, but it has not helped everyone.

**Chic Brodie:** Do you accept that there is a limitation because of those reserved powers, and that anything beyond £20.1 million, which was how much was afforded in the budget, is not feasible under existing legislation?

11:00

**Alan Wyllie:** I do not. If there is a will, there is a way. With any form of mitigation there will be positives and negatives. With financial mitigation, there is a legitimate argument that you are robbing Peter to pay Paul. However, I do not agree with that argument. This is about priorities, and that is what Governments do: they decide policies, cost them and fund them. I trust that the Scottish Government and Parliament will make the right choice, if it can be done.

**Chic Brodie:** That is the point—it cannot be done. There was a similar situation last year, in which the Government was instructed by Westminster to increase pension fees. The suggestion was that if we did not do that, moneys would be withheld by the Westminster Government. Therefore, there would be an impact on what, collectively—not just the Scottish National Party—we want to see in Scotland. As much as we regret it, there is a penalty if we do not follow the powers that exist in the Scotland Act 1998.

**Alan Wyllie:** If there is a will, there is a way. If it cannot be done, I truly apologise for wasting the committee's time.

**Chic Brodie:** I accept that. The £33 million Scottish welfare fund was made available. It was set up to administer community care grants and crisis grants. What is your understanding of the uptake of that fund?

**Alan Wyllie:** I am not too sure. I believe that the Scottish Government has given £233 million to mitigate welfare reform over the next three years. That is a lot of money. It is a bit cheeky of me to come back and ask for more, but I am asking for more for the right reasons. There are people out there who need help and are not getting it.

**Chic Brodie:** Having shared a platform with you, I would be the last person not to understand your motivation, which is highly commendable. I am sure that we share that motivation. However, although there are restrictions, we have tried to make funds available. Are the local authorities doing enough to communicate what is available to those who are either suffering rent arrears or not taking up the welfare fund?

**Alan Wyllie:** It would be unfair to have a blanket opinion of all local authorities. Some are very good

and very proactive; others are not as proactive and could do more.

**Chic Brodie:** How should we persuade them to do more?

**Alan Wyllie:** I have been emailing and lobbying councillors, asking them to do more. Sometimes, you get some success; at other times, you do not. You just keep chipping away and hoping to get somewhere.

**Angus MacDonald:** Good morning, Mr Wyllie. It is fair to say that there are very few people in Parliament who do not have a great deal of sympathy with your petition. However, I will pick up on points that Chic Brodie made. As I understand it, your petition calls on the Scottish Parliament to urge the Scottish Government to do something that it legally cannot do.

As you are aware, and as Chic Brodie alluded to, there is a legal maximum to how much Scottish Government can top up the Scottish discretionary housing payment budget, hence the £20 million announced by John Swinney. Again as I understand it, the legal maximum is set by statutory instrument made under section 70 of the Child Support, Pensions and Social Security Act 2000, which was, incidentally, introduced by the Labour Government when Alistair Darling was the Secretary of State for Work and Pensions.

This is a case of “we would if we could”. Do you have any suggestions as to how the Scottish Government could get around the legal constraints? It is all very well to have priorities, as you mentioned, but if we have legal constraints on those priorities, how do we get around them? I qualify my remarks by saying that this is frustrating for everybody.

**Alan Wyllie:** I totally appreciate that. I was advised that the Government could create a prevention of homelessness fund or direct the moneys to registered social landlords as a supplement to their income. There are other mechanisms to get the money into the system rather than just the through discretionary housing payment, which I appreciate is already at the maximum level.

**Angus MacDonald:** Are you aware of whether Shelter, for example, has fed that suggestion to the Scottish Government?

**Alan Wyllie:** I spoke to Shelter just after the budget, and it was quite happy about how things were then. It was going to see how things panned out and then decide what to do. I am not too sure whether it has done so, as I am not in deep contact with it.

**Anne McTaggart:** I thank you for your presentation, Mr Wyllie, and whole-heartedly agree with what you are asking for. We do not

normally stray into political territory, but on this occasion I will do so.

I fully agree that our present Government has other ways and means to address the situation. I will describe for some of my colleagues what I am talking about. We could pay local government and the housing associations the funding to do that, as you said. You are exactly right: where there is a will there is a way.

**John Wilson:** Thank you, Mr Wyllie, for coming along today. As other committee members have said, we have every sympathy with the petition; the question is how we deal with the shortfall. I would like some clarification from you on what the shortfall is.

My understanding is that the Scottish Government set aside £20 million, and the Department for Work and Pensions set aside £13.47 million. Taking those two figures together in relation to the shortfall of £50 million that was calculated previously, we are left with a gap of £16.3 million. Is that your estimate of the figure that is required?

**Alan Wyllie:** That is the number, yes.

**John Wilson:** It is £16.3 million. I seek further clarification with regard to Anne McTaggart's assertion that there are other ways in which the Scottish Government can get round the bedroom tax, which has been put in place by the Westminster Government. I am reminded of the debate about the tax-varying powers for which the people of Scotland voted in 1997 as part of setting up the Parliament. The then UK Government indicated to the Scottish people that, if the Scottish Parliament or Scottish Government decided to use those powers, the money—whether the decision was to raise or reduce tax by 3p in the pound—would be clawed back by the UK Treasury.

Do you not see, therefore, that if the Scottish Government tried to bypass the proposals that the UK Government has implemented, the UK Government could cut the Scottish Government's block allocation, which would mean that expenditure in other areas may be affected, not by a decision of the Scottish Government, but by a decision of the UK Government?

**Alan Wyllie:** That goes back to the point about the negative ramifications of financial mitigation. I see your point—that it would be robbing Peter to pay Paul, basically—but that is what Governments do. They decide on a budget and fund it, and they go for it. You are making a legitimate argument, but I do not agree with it.

**John Wilson:** It is fine to use the analogy of robbing Peter to pay Paul, but in this situation we are talking about paying Paul, and the Scottish Government being robbed of an allocation of

resources from the UK Government if it took the decision to give the additional £13.6 million to local authorities or registered social landlords to try to bypass a piece of legislation that was introduced by a Westminster Government.

**Alan Wyllie:** I appreciate your point. I trust that, if the Scottish Government found the money, whatever budget it came out of, it would take a commonsense approach to ensure that there were no negative ramifications. I trust that the Scottish Government would not take the money out of another budget if that would hurt another sector or stakeholder. I trust that politicians would make a sensible choice and follow a commonsense approach.

**John Wilson:** As I said, we are asking for mitigation of a policy direction that has been taken by Westminster. Given the fact that a universal credit pilot scheme was introduced in Inverness yesterday, I have no doubt that other demands will be made on the Scottish Government to offset the losses that will be incurred by many families throughout Scotland once the universal credit comes in. This could be the thin end of the wedge, as people ask the Scottish Government to implement measures to mitigate policies that have been pursued by a Westminster Government.

**Anne McTaggart:** I am failing to grasp the difference between the UK Government imposing sanctions on the Scottish Government and the Scottish Government imposing sanctions on local authorities, which are trying to rectify the situation as best they can. Mr Wyllie is right to say that where there is a will there is a way.

**John Wilson:** I understand that the Scottish Government is not imposing sanctions. It is the UK Government that has imposed sanctions on individuals who have what the UK Government has determined is overcapacity in bedrooms. The Scottish Government is trying to mitigate the sanctions that are being imposed by Westminster; the Scottish Government has not imposed any sanctions in relation to the bedroom tax.

**The Convener:** I will not draw Mr Wyllie into that argument.

As I said, Jackie Baillie has an interest in the petition. She was unable to attend the meeting earlier, but I am glad to say that she is now with us. I understand that she has drafted a member's bill that may have an impact in the area.

As I explained to Mr Wyllie, we referred a previous petition to the Welfare Reform Committee because the convener of that committee was keen to consider it as part of its work cycle. It would therefore make sense for the committee to agree to refer this petition also to that committee. We are not normally just a referral committee and we want to give everyone a clear bit of time in which to put



their case. Several members have asked quite detailed questions on the issues. That is where we are.

Does Jackie Baillie want to make some brief points?

**Jackie Baillie (Dumbarton) (Lab):** Yes, if I might, convener. I apologise to the committee for arriving late. I arrived in time to hear John Wilson's comments, and I would like to pick up some of those points with Alan Wyllie.

I am not sure that Mr Wyllie knows that Danny Alexander, the Chief Secretary to the Treasury, came before one of the Parliament's committees and made it clear that it is up to the Scottish Government to decide what it does with its money to mitigate welfare reform and that there will be no clawback. Were you aware of that, Mr Wyllie, and does it offer you some comfort that the UK Government will not claw the money back from the Scottish Government?

**Alan Wyllie:** I was aware of his saying that—I saw it in the press reports—and I am a bit more relaxed after hearing that.

**Jackie Baillie:** My other observation is that, having spoken to some of our local government colleagues, I know that they are supportive of your petition. COSLA certainly supports it. However, I understand that the existing £20 million from the Scottish Government, which is very welcome, was not ring fenced. Therefore, local authorities that have already topped up could use that money for some other purpose. Does that not demonstrate that the Scottish Government has the power to provide the money and that local government has the power to make payments itself, through a housing sustainability fund, a homelessness fund or something of that order?

**Alan Wyllie:** The mechanism is not really important—it is the money that is important. Different mechanisms are available. As you mentioned, perhaps because of the low take-up of DHP, it would be best if the money went to registered social landlords as some sort of supplement to their income. That would reduce the need for tenants to contact local authorities. I believe that there are different mechanisms that local authorities can use to help.

11:15

**Jackie Baillie:** In your view, is there anything to prevent the Scottish Government from making available £50 million to mitigate the bedroom tax, which I think we all agree is a quite horrendous tax?

**Alan Wyllie:** That is the Government's choice.

**Chic Brodie:** I will try to forget that selective rewriting in Ms Baillie's understanding of section 70 of the Child Support, Pensions and Social Security Act 2000. It is always good to come and draw a picture, Ms Baillie, albeit very late.

Mr Wyllie, what analysis has been done of the cost of raising the bedroom tax against the amount of money that has been dispensed? Have you asked any of the local authorities, such as North Lanarkshire Council, for example, what would be involved in distributing the bedroom tax versus the amount of money that they have received?

**Alan Wyllie:** No, I have not. I am sorry, but I do not particularly understand your question.

**Chic Brodie:** There was a report in the papers on Sunday that the cost of chasing or applying the bedroom tax is a lot more than the money that has been received by councils.

**Alan Wyllie:** Yes. If councils go down the road of evictions, that will cost more. The money that we are talking about covers just the rent and not the additional administration costs of housing associations and local authorities.

**Chic Brodie:** It is worth our while asking the question, because we all agree that the tax is iniquitous, albeit that some of us have done so later than others. It makes a nonsense of it if it is actually generating more costs than the moneys that are available.

**Alan Wyllie:** You are 100 per cent right. The tax does not save money, and most people knew that at the beginning. Initially, the Government said that it would save money, but it does not—it just moves responsibility from central Government to local government, housing associations and tenants. The Government said that the tax would improve the housing system, but it does not do that either. The bedroom tax makes no sense. It costs a lot of money and it costs our communities. It is hurting a lot of people. I realise that it does not emanate from the Scottish Parliament and that the only place where it can be stopped is Westminster. However, I am here to make a plea for help for the tenants who do not have any protection.

**The Convener:** We are very short of time, but I will bring in John Wilson.

**John Wilson:** I just want to ask Mr Wyllie about a couple of points that Ms Baillie referred to. She referred to £50 million from the Scottish Government. In an earlier answer, Mr Wyllie agreed with me that the shortfall is really £13.3 million rather than the £30 million that Ms Baillie might be alluding to. I ask Mr Wyllie to confirm that the overall cost of offsetting the bedroom tax would be £50 million; that the Scottish Government has set aside £20 million to assist

local authorities, albeit that that is not ring fenced, which might be an issue that we can take up later; and that the DWP has allocated £13.6 million to local authorities for discretionary housing payments, which gives us a working total of £37.6 million. Sorry, I need to get my figures right here—it is about £36 million, so the real shortfall is about £13 million.

**Alan Wyllie:** As far as I am concerned, there is approximately £35 million available, and the original estimated shortfall was £53 million.

**The Convener:** I am afraid that we have run out of time although I have the impression that we could keep this discussion going for another few hours. Thank you very much for coming along, Mr Wyllie. If you could just hold on for a couple of minutes, the committee will now go into summation mode, which means that we will discuss which options are open to us.

I still think that it was important for us to raise a whole series of questions rather than merely refer the petition on to the Welfare Reform Committee. Having said that, my view is that we should now refer the petition to the Welfare Reform Committee because it is actively considering the matter as we speak. Nevertheless, I found your contributions very helpful. We had a variety of questions from members and I think that it was important that we put those questions to you and that we got some answers.

Does the committee agree with my recommendation that we refer the petition to the Welfare Reform Committee?

**Members** *indicated agreement.*

**The Convener:** Thank you for coming along, Mr Wyllie. Obviously, the Welfare Reform Committee will keep you up to date with developments. I also thank Jackie Baillie for coming along. I know that she has taken a great interest in these matters and I appreciate her comments as well.

I suspend the meeting for one minute to allow Mr Wyllie to leave.

11:20

*Meeting suspended.*

11:21

*On resuming—*

## Current Petition

### Miscarriage (Causes) (PE1443)

**The Convener:** With the committee's approval, I will now go to the second current petition because the petitioners who were due to give evidence have been delayed in traffic. I have been advised that they will be here shortly.

The second current petition is PE1443, by Maureen Sharkey, on behalf of Scottish Care and Information on Miscarriage, on investigating the causes of miscarriages. Members have a note by the clerk and submissions. I think that Maureen Sharkey was in the Parliament recently—she had one of the information stalls. It was certainly a very good petition.

The petitioner, as you know, believes that the current guidelines do not allow women to be responded to and urges the Scottish Government to change its policy. However, I think that the Scottish Government has made it quite clear that it supports the current royal college guidelines, and the organisations do not support investigation of the offer of testing for women following a single miscarriage for the reasons that are set out in the responses.

Unfortunately, I cannot personally see any other way forward for this petition, although I put on record my thanks to Maureen Sharkey and her colleagues for her excellent petition. At the end of the day, we can deal only with the material that we have and everybody we have written to has had a very clear view on the matter. Obviously, I welcome any other views from members. I can see no way forward other than to close the petition under rule 15.7. However, as always, I will defer to members' views and expertise in relation to the issue.

**John Wilson:** I am not minded to close the petition today, on the basis of the response from the Royal College of General Practitioners Scotland. The RCGP Scotland was asked how it ensures that

“there is an emphasis on patient centred care”.

The RCGP stated in its letter of 4 October that patients'

“response to miscarriage varies hugely.”

We know that. The issue is that it then goes on to refer to

“The scientific guidelines endorsed by our colleagues at the Royal College of Obstetricians and Gynaecologists”.

An individual's needs at a time of a trauma need to be assessed on the basis of how the individual reacts to that trauma. To my mind, the answer from the RCGP does not mean that it is endorsing patient-centred care. Basically, it is doing a scientific analysis of whether testing should be carried out.

The evidence that we have received from the petition is that an individual can go through up to three miscarriages before they are allowed to be tested under the present guidelines. We need to go back to the basic principle of patient-centred care. When a patient has suffered a miscarriage, it should be their right to request that tests be carried out to get to the root cause of the problem and to find out whether there might be any issues in their medical future that could lead to further miscarriages.

I therefore suggest that we write to the Royal College of General Practitioners Scotland and to the Scottish Government to seek assurance and clarification of the definition of patient-centred care, and to find out whether a patient would have the right to demand that appropriate tests be done prior to them suffering either a second or a third miscarriage, if those circumstances were to arise.

My recommendation is that we write to the Scottish Government and to the RCGP to seek that guidance.

**Anne McTaggart:** I agree fully with what my colleague John Wilson has just said. I thank Scottish Care and Information on Miscarriage for its outstanding executive summary. Miscarriage affects 5,708 women in Scotland each year. It scares me to think that only 50 per cent of hospitals have specialised early pregnancy units; that is a worrying statistic.

I do not think that we have finished with this petition. I would like to ask whether the Scottish Government is satisfied with those statistics. We have heard from other authorities that do not agree with what the petition requests, but I still want to go back to the Scottish Government.

**Chic Brodie:** I think that I understand the position as it was put to us so eloquently by my colleague Mr Wilson. We wrote to the RCGP in June, and at our September meeting we agreed to write to the RCGP again. In its response, it suggests that there is a problem with numbers, but on the basis of the fact that women who experience complications in early pregnancy are given access to an early pregnancy assessment service with care in dedicated areas, I am not sure how much further we can take the petition and what additional answers we can expect.

**Angus MacDonald:** I take on board the points that John Wilson and Anne McTaggart have made, but when I looked at the paperwork for the

petition, I was minded to agree to close it under rule 15.7. However, given that some committee members still have concerns and want to seek further information, I am happy to agree to that.

**David Torrance:** I am happy to agree to the committee seeking further information.

**The Convener:** Following John Wilson's eloquent comments, I do not think that I have any choice other than to support pursuing the petition by writing to the Scottish Government and the RCGP.

**Anne McTaggart:** With regard to Chic Brodie's point, we have written to a few organisations and they have given evidence that they believe that the situation is okay. However, I am not sure that they are doing what it says on the tin if they believe that. Only 50 per cent of hospitals have early pregnancy units, and I do not think that that is adequate.

**The Convener:** The committee has agreed to continue the petition and write to the two organisations that John Wilson mentioned. We will keep the petitioner involved with future developments.

11:29

*Meeting suspended.*

11:31

*On resuming—*

## New Petition

### Respite Services (Young Disabled Adults) (PE1499)

**The Convener:** The third new petition is PE1499, by Robert Watson on behalf of the What About Us? campaign group, on creating suitable respite services for younger disabled adults with life-limiting conditions. Members have a note by the clerk, the SPICe briefing and the petition. Jackie Baillie is interested in the petition, so she remains with us.

I welcome to the meeting the petitioner, Robert Watson, and Kyle Kelly. I invite Mr Watson to make a short presentation for a maximum of five minutes, to set the context of the petition. I will then ask a few questions and my colleagues will ask further questions.

**Robert Watson (What About Us?):** I bet that most of you in this room had a holiday this year—a chance to go somewhere different or to a place that you enjoy visiting for a break from the usual routine and the stresses of everyday life. That is what a respite break is like for us. How would you feel if you were told that you could never have a holiday again?

That is the reality that people such as me, Kyle Kelly and our families who care for us face following the decision by the Children's Hospice Association Scotland to withdraw its services for people who are aged 21 and over, combined with the fact that there are no suitable adult respite facilities for our age group that we can move on to. Respite breaks are the only type of holiday that a lot of us can go on, so to lose the benefits that they bring would be devastating.

For me—I am sure that Kyle Kelly and most other young adults in the same situation would agree—the benefit of a respite break is that it is a chance for me to have a break away from my parents and from the usual routine. I can get up when I want, go to bed when I want and get a shower when I want, without that being set by the time when the care workers are due to come in.

A respite break is also a chance to socialise with other people of my age who have the same or similar conditions, so we can relate to each other. Because we live far from each other, I do not get the chance to see those friends outside respite breaks. A break helps us to get away from the isolation that we can feel from being at home most of the time. For some of us, it is our only chance to socialise. Like any other 28-year-old man, I just want to be out socialising and feeling independent.

A respite break gives me the opportunity to do that.

Initially, the issue is affecting about 100 young adults and their families. However, as the years go by and more young people reach the cut-off age of 21—and who knows whether that might go down further, to 18, in future years?—the number of people who will need age-appropriate adult respite services will only keep increasing. It would be better to do something about the situation before things become too desperate.

There are no services for people in our age group—there is nothing between CHAS services for children and hospices for older adults who are in their 50s and 60s, who are mainly suffering from cancer and other terminal illnesses. We are asking, “What about us?”, as we seem to be a forgotten group that is stuck in the middle. With advances in medical care and support, many people with severe physical disabilities such as Duchenne muscular dystrophy are now living significantly longer, but no one seems to have been prepared for that.

It seems that, as life expectancy increases, the support that is available to us decreases. The adult respite situation is another example of that strange paradox. I have Duchenne muscular dystrophy and, because it is a progressive condition, my health will gradually get worse as I get older. It must be remembered that my parents, who carry out the vast majority of my care, are also getting older, which means that their health will get worse too.

The average weekday for my dad begins at 6.15am and, by the time my parents have put me to bed, my dad sometimes does not get to bed until midnight. My parents sometimes do not even get a proper night's sleep if I need help during the night. My mum also has Duchenne, albeit a milder form, so sometimes my dad is caring for two people. Both my parents have a number of health problems of their own—my mum also has diabetes, and my dad has a pacemaker—so respite breaks are vital for them to be able to relax and spend some time together as a couple, and recharge their batteries.

It is in the Government's best interest to provide funding for suitable adult respite services because those breaks enable my parents to continue their caring role in the long term. Without those breaks, it would become too difficult for my parents to continue to care for me, and it would cost the Government a lot more money to provide 24/7 care for me.

I hope that I have shown you all just how important it is for so many people that the Scottish Government does something about the lack of adult respite services and facilities. We need

quality respite facilities to be created for younger adults who are living with severe physical disabilities in Scotland. I hope that, with your help, Scotland can lead the way in creating those much-needed services.

**The Convener:** Thank you very much for coming, Mr Watson. I also thank Kyle Kelly—please let me know if you wish to speak at any time, Kyle, because we want to include you in our discussion. I know that it was a difficult journey for you today; I do not know whether it is the first time that you have given evidence before a Scottish Parliament committee.

**Robert Watson:** Yes, it is.

**The Convener:** We do not have a certificate for you today, but we perhaps should have.

Just to ensure that I understand you correctly, is the problem a combination of the lack of facilities for younger adults such as you and a lack of funding, or is it simply that there are not facilities in Scotland?

**Robert Watson:** We did a lot of research, and it seems that there is not really anywhere suitable. The only place that I found that seemed to be suitable was Leuchie house out in North Berwick, but it charges £1,000 just for a four-night stay, which is just not affordable for the average person. If it was cheaper, or if there was more funding available, that would be an option.

**The Convener:** Have you had a look at other examples in other countries, such as England, Wales and Northern Ireland, or elsewhere in Europe, to find examples of best practice?

**Robert Watson:** Not in Europe, but we have looked around the UK, and the lack of such facilities seems to be a UK-wide problem. There are a lot of children's respite services but, once someone reaches 18 or 21, they are not allowed to go anywhere. There seems to be nowhere to go to address that gap in the middle.

**The Convener:** So there is a gap at that stage. Children have some coverage, but there is a gap in young adult provision throughout Scotland.

**Robert Watson:** Yes—from age 21 to about 40 or 45. It is hard to define the upper age limit, but the early 40s would be about right. There seem to be services for people in their 50s and 60s with terminal conditions such as cancer, but nothing in the middle.

**The Convener:** It may be that some establishments are suitable for you, but the problem is that they do not cater for the age group with whom you want to socialise. Are you saying that the sociability aspect is very important? Do you want people who are the same age as you to be there?

**Robert Watson:** There are places out there for younger adults with learning difficulties, but nothing that is suitable for physical disabilities. Those are two very different types of disabilities.

**The Convener:** Thank you for that. I will bring in some of my colleagues and, once the committee has concluded its questioning, I will bring in Jackie Baillie. Chic Brodie will go first.

**Chic Brodie:** Good morning, Robert and Kyle. Forgive my lack of knowledge about how widespread the problem is. How many people do you think fall into this category in Scotland?

**Robert Watson:** The 100 families that I mentioned are just the families that are affected by CHAS's decision to stop people over 21 from going.

**Chic Brodie:** How many are affected by CHAS's decision?

**Robert Watson:** More than 100 for CHAS alone, but there are a lot of people with different conditions who do not use CHAS's services.

**Chic Brodie:** Do you know how many fall into that category?

**Robert Watson:** I do not have numbers, I am afraid.

**Chic Brodie:** I was just trying to understand the scope of the challenge. Presumably, CHAS's decision is based on finance, or is there any other reason that you are aware of?

**Robert Watson:** You would need to ask CHAS, but I think that it said that demand was increasing because so many children were using its services. I find that I do not get as many stays as I used to, because there are a lot more people going there. Also, because a lot of us are much older than the children who are there, I think that they feel that it is not appropriate for us to be there.

**Kyle Kelly (What About Us?):** What Robert Watson has said is how I feel too.

**John Wilson:** Robert Watson mentioned a figure of £1,000 for four-day residential provision, and I can see from your submission that the Minister for Public Health seemed to have become confused between respite for yourself and for people with your condition and respite for your parents. You indicated that you were pushing for respite for your parents to go away on a holiday, but would that mean that you would need 24/7 care during that respite period for your parents?

**Robert Watson:** It would. I cannot speak for other families, but I know that my mum and dad would rather be at home and have time to themselves while I went away somewhere.

**John Wilson:** I have done a rough calculation based on 24/7 care, which would cost about £1,500 for seven days. That would almost equate to a respite break for yourself somewhere with specialist care provision. Who pays for the cover when your parents have their respite? Is it the local authority that steps in to provide the funding for a carer in the periods when they are not there?

**Robert Watson:** I guess that they should, but they do not give anybody enough funding for anything like that. The only care that we get is seven mornings a week for two hours each day to get me up, and an hour twice a week at night for showers. Kyle Kelly's situation might be different.

**Kyle Kelly:** During the week, I get carers that come in for an hour or so in the morning to get me up and ready, and 45 minutes at night for showers.

**Robert Watson:** Is that all?

**Kyle Kelly:** Yes, that is all.

**John Wilson:** That raises the wider issue of the amount of time and funding that is allocated to provide appropriate care for individuals. If the local authority is picking up the cost for individuals who need 24/7 care, the money should be there to provide that, but I hope that by taking the petition forward we will be able to look at some of the issues that arise.

**Anne McTaggart:** I thank Robert Watson and Kyle Kelly for coming along today.

Recently I had the pleasure of visiting Robin house children's hospice with Jackie Baillie in Balloch, in her area. What a time that was—it was wonderful. While we were visiting a lot of younger people were there. I have constituents who have been to Leuchie house and did not really enjoy it, because they were younger than the older age group that was receiving respite there. As Robert Watson said, there is a gap in the respite that is available for teenagers and younger adults. That is a huge concern, because one of the main parts of respite is about getting together to socialise with your friends.

I will come back in at the end on something else that I want to ask.

11:45

**The Convener:** As no other members want to speak, I will bring in Jackie Baillie.

**Jackie Baillie:** Thank you, convener. Evidently I was caught in the same traffic jam as the witnesses, because I arrived moments before them.

It is not just me who supports the petition; my colleague Jim Eadie, who cannot be here today, is

equally supportive of it. The petition commands cross-party support.

I suppose that the problem could be described as one of success. As a result of modern medicine, young people with particular conditions are doing extremely well. That is great, but it means that CHAS, which is a bespoke children's service, is plugging a gap. The reality is that a bespoke service for young adults is needed as well.

A lot of the respite provision that I have seen takes place in care homes in which there are older people with a variety of problems, which is—frankly—not appropriate. There should absolutely be respite for parents, carers and all that, but I suspect that the request is that there should be respite care in which individuals can come together. We need that kind of bespoke provision.

We could argue about whether we need one centre or two. I look at CHAS as a model and say that we could learn and copy much from it. A funding model already exists in which a lead health board negotiates with others for children going to CHAS services. COSLA has agreed a package in which there is negotiation with individual local authorities if a child is going to CHAS services. That model exists and it should not be beyond us to copy it.

Robert Watson, you are pushing it at 28; you are not a young adult—you are well past it. However, for young adults to have their own place that is not full of kids or older people is very important for them, their carers and their families.

The request is not just to the Scottish Government and is not just about public money, although that matters. It is about acknowledging that such facilities are required. People have raised funds, undertaken campaigns and hugely welcomed Government support—just a small amount goes a long way. It is not just a question of capital; the revenue package is also there. We just need to transport the model on.

I hope that the committee will be extremely supportive of the petition, which commands cross-party support.

**The Convener:** Do members have any final comments?

**Chic Brodie:** I have done a quick calculation. Across the 32 local authorities, 10 days of respite would cost £30,000, which is not huge in the scale of things.

I ask Robert Watson and Kyle Kelly whether, if we had the facilities, there would be enough skilled people to handle the situation. We have care capabilities in CHAS now, but you have talked about the volume of people beyond a

certain age limit. Do we have the capability or resource to deal with that?

**Robert Watson:** I think so, judging by the care that I have had over the years at Rachel house. Based on that, I would say yes but, without experiencing other places, it is difficult for me to say what care is like on a wider scale.

**Kyle Kelly:** Basically, I think the same. It is hard to talk about other carers if you have not experienced them. If someone has had only the carers that we have in CHAS now, they have not had any other experience.

**Robert Watson:** There seem to be a lot of care providers, but they are not necessarily all of the same standard. I have had lots of agencies over the years and I have had some bad experiences, so I know both sides.

**The Convener:** I think that Anne McTaggart has a final point before we go to summation.

**Anne McTaggart:** My point is really in summation. We should ask the relevant parliamentary cross-party groups for their advice on the petition.

**The Convener:** For the benefit of Robert Watson and Kyle Kelly, I state that we will now consider what the next steps should be for the committee. We heard your excellent evidence and you answered the questions well. We will now consider the next stage. It is clear that we want to continue your petition, and some suggestions have been made. Can I have suggestions from committee members on the next steps?

**Chic Brodie:** I support the recommendation that we write to the Scottish Government, the Scottish Partnership for Palliative Care and the Health and Social Care Alliance Scotland. I thank Jackie Baillie for her views, and I add that the idea of a debate in the Parliament is not a bad one.

**The Convener:** A plenary debate would be a matter for the Conveners Group but, through a bit of foresight, I have a bid in for a debate, probably in March or April. I made the bid without knowing what subject we would discuss. If the committee agrees to debating respite care, we have a card to play, which is fortuitous.

**John Wilson:** I agree that we should write to the Scottish Government, the Scottish Partnership for Palliative Care and the Health and Social Care Alliance Scotland, but I suggest that we also write to a couple of local authorities to find out their role in provision. Some of the funding comes from local authorities, so it would be useful to get their views.

On the basis of Jackie Baillie's comments, I suggest that we also write to NHS Scotland to get an overview of what health boards should be doing to ensure that there is provision. Jackie

Baillie is right. A lot of the funding for such provision has been charitable funding but, given the care and attention that are needed for individuals who want respite care away from their parents and other family members, it would be useful for us to look at NHS Scotland working in conjunction with local authorities to consider what can be done to set up provision for young people—I would like to refer to young people up to the age of 45, but I am well beyond that. However, if people still see themselves as being young at 45, good on them.

**Angus MacDonald:** The presentation was excellent and Robert Watson and Kyle Kelly put their points over well. Given what we have heard from them, I am struck by the need to debate the issue in the chamber. It is curious that there does not seem to be much mention of charities that deal with muscular dystrophy, although the Muscular Dystrophy Campaign is mentioned. It might be an idea for us to write to it to find out how it would feel about getting involved in new facilities in Scotland.

**Robert Watson:** The Muscular Dystrophy Campaign and Action Duchenne are both aware of the campaign; I have been in regular contact with them. They are both keen to work with the Government to try to solve the issue.

**Angus MacDonald:** That is good to hear. If we could write to those organisations and get official responses, that would be good.

**The Convener:** Yes. As there are no other contributions, I say to Robert Watson and Kyle Kelly that we are enthusiastic about your petition. You have identified a huge gap on which we can do a lot more work with the Scottish Government. We will write to all the organisations that members mentioned, and it will probably be worth while for us to write to COSLA as well.

We have also talked about a plenary debate. That means that we will bid for some time in the chamber for a debate by the Parliament as a whole. If we are successful, the debate will be led by us and all the other parties will come along. For example, the health spokespeople will come along and speak. It would be good if we could get you, your families and friends and others along to watch the debate from the gallery.

We have to bid for such a debate but, as I said, I have already made a general bid for time, which I hope that we can convert into a bid for a debate on this subject. You can leave us to work out the technicalities, but we are on the case. It will probably be April or May before that comes through, but we will keep you up to date.

I thank Jackie Baillie for coming along, and I thank Robert Watson and Kyle Kelly for coming along and giving evidence for the first time to the Parliament. We hope to see you back soon,

particularly when we have the debate in Parliament.

I suspend the meeting to allow our witnesses to leave.

11:55

*Meeting suspended.*

11:57

*On resuming—*

## Current Petitions

### Judiciary (Register of Interests) (PE1458)

**The Convener:** We go back to current petitions, the third of which is PE1458, by Peter Cherbi, on a register of interests for members of Scotland's judiciary. Members have a note by the clerk and the SPICe briefing on section 23(7) of the Scotland Act 1998, which we asked for.

Members will know that Chic Brodie and I arranged to meet Lord Gill to discuss the issue. That meeting was set up to take place in the Parliament but, unfortunately, it was to be on the same day as the funeral following the sad death of Helen Eadie. We felt that it was appropriate to cancel the meeting so that we could attend her funeral. The meeting has been rescheduled for later in January. With the committee's approval, I suggest that we defer discussion of the petition until Chic Brodie and I have met the Lord President. Is that agreed?

**Members** *indicated agreement.*

**Chic Brodie:** A bill on a similar issue is still being considered by the New Zealand Parliament, which will not report on it until February 2014, so it would be good to have an update to see what direction it is going in.

**The Convener:** Okay.

### Vacant Land in Private Ownership (PE1465)

**The Convener:** The fourth current petition is PE1465, by Tony Ivanov, on the maintenance of vacant land in private ownership. Members have a note by the clerk—it is paper 7—and written submissions. I invite contributions from members.

**Angus MacDonald:** I am disappointed that the Scottish Government is not willing to take on board the petitioner's argument. The Town and Country Planning (Scotland) Act 1997 allows a planning authority to take action regarding vacant land in private ownership, but it is clear that there is little incentive to enforce notices when the chance of recouping any expenditure is low.

I agree with Falkirk Council's view that

"an extension of the provisions of Section 179 Amenity Notices to include prosecution powers would assist in a proportion of cases."

It is unfortunate, to say the least, that the Scottish Government has said that it has

"no plans to amend Section 179".



Having back-up powers that would allow councils to prosecute or to serve fixed-penalty notices would certainly have helped to resolve the situation to which the petitioner referred.

I am disappointed that the Scottish Government has not taken the petition on board. Councils clearly have some powers to deal with the issue, but a fixed-penalty power would give them a wee bit more clout. Unfortunately, the Government has indicated that it is not prepared to amend the law as it stands, so we will have to look at other means of convincing the Government to introduce a fixed-penalty power for such breaches.

12:00

**The Convener:** I thank Angus MacDonald for his point. Do you have any recommendations for the committee on how to deal with the petition?

**Angus MacDonald:** I am loth to close the petition, but we have hit a brick wall. Perhaps we have to get our thinking caps on to see what else we can do but, unfortunately, I do not think that the committee can do much more.

**The Convener:** It sounds as though you will look at other action beyond the petition.

**Angus MacDonald:** Yes.

**The Convener:** Do other members have views? I take Angus MacDonald's point that this is a good petition, but it does not look as though we have much option other than to close it under rule 15.7 of the standing orders, as the Scottish Government maintains that powers are already in place to address the issues raised in the petition and that responsibility for when and how the powers are exercised rests with local authorities. Is that agreed?

*Members indicated agreement.*

### **Alzheimer's and Dementia Awareness (PE1480)**

**The Convener:** The fifth current petition is PE1480, by Amanda Kopel, on behalf of the Frank Kopel Alzheimer's Awareness Campaign, on Alzheimer's and dementia awareness. Members have a note by the clerk and the submissions.

This might be mentioned in the papers, but I point out that I took the opportunity at a question time to ask the cabinet secretary about looking at free personal care for under-65s who have dementia. I could circulate the answer among the committee. In fairness to the cabinet secretary, I thought that the response was quite supportive about the general problem, although there was no clear commitment to change the cut-off point of 65 for free personal care.

I invite comments from members. It is suggested that we write again to Alzheimer Scotland and write to COSLA about its work on the charging guidance for non-residential social care services. Is that agreed?

*Members indicated agreement.*

### **Single Room Hospitals (Isolation) (PE1482)**

**The Convener:** The sixth current petition is PE1482, by John Womersley, on isolation in single rooms in hospitals. Members have a note by the clerk and the submissions. I invite comments from members.

There are a number of options, including the suggestion that we seek the views of the Scottish health council, given that it has a key role as the consumer voice in Scotland on the issue. Do members agree that we take that approach?

*Members indicated agreement.*

### **Independence Referendum (Bilingual Question) (PE1483)**

**The Convener:** The seventh and final current petition is PE1483, by John Macleod, on a bilingual version of the independence referendum question. Members have a note by the clerk and submissions. The Referendum (Scotland) Bill Committee considered the issue and no member lodged a stage 3 amendment to seek a bilingual ballot paper. The Government's view is clear: it does not wish to accept the terms of the petition.

**Angus MacDonald:** As convener of the cross-party group on Gaelic, I have a great deal of sympathy with the petition, particularly given the guidance in Bòrd na Gàidhlig's national plan for Gaelic that the language should be given equal respect, although the guidance says that that does not automatically mean identical treatment for Gaelic and English in all circumstances.

It is unfortunate that the campaign for a bilingual ballot paper was not started earlier, as that would have given the Electoral Commission time to test such a paper. I note that the commission's response states that it would take about 10 weeks to test the paper. However, given that the Scottish Independence Referendum Bill has been passed at stage 3, there is little scope for that to be done. Had the Government advised us of the commission's 10-week timescale, we might have been able to do a bit more earlier.

It is noticeable that no similar request has been made for a bilingual ballot paper for any other election to date. We should also take on board the views of the Electoral Management Board for Scotland, which cites voter confusion. Gaelic

speakers might find that that is a spurious argument for not having a bilingual ballot paper.

We have only to look back to 2007 to see what damage voter confusion can do to an election. However, the petitioner makes an interesting suggestion in the final paragraph of his response to the Scottish Government's response. Although he acknowledges that it might be too late for the Electoral Commission to do an assessment of a bilingual question for the referendum, he suggests that it might be an idea to do a general assessment now rather than later for future referendums and elections. Would the committee be minded to write to ask the Scottish Government to consider that suggestion with a view to future elections?

**The Convener:** Are you suggesting that we close the petition but write to ask the Scottish Government to consider the idea for the general election in 2015 or the Scottish Parliament election in 2016?

**Angus MacDonald:** I would be content with that. Although we are closing the petition, can we expect a response from the Government?

**The Convener:** Yes, I think that it is competent to do that.

**Chic Brodie:** Some of us failed in not raising the issue during the passage of the bill. For the life of me, I do not understand the Government's position. I support Angus MacDonald's proposal.

**Angus MacDonald:** I considered lodging an amendment at stage 3, but the advice that I received from the Government led me to believe that there was no purpose in doing that, given the timescale.

**The Convener:** I suggest that it might not have been a good career move either, but that is another issue.

If I understand members, are we agreeing unanimously that we will close the petition but write to ask the Scottish Government to consider the idea for the 2015 and 2016 elections?

**Members** *indicated agreement.*

**The Convener:** As agreed under agenda item 1, the committee will now go into private for the final item on the agenda.

12:07

*Meeting continued in private until 12:27.*

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

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