



# Citizen Participation and Public Petitions Committee

## Agenda

9th Meeting, 2022 (Session 6) Wednesday 18 May 2022

The Committee will meet at 09:30 am in the Smith Room (CR5).

1. **Decision on taking business in private:** The Committee will decide whether to take item 3 in private.
2. **Consideration of continued petitions:** The Committee will consider the following continued petitions—

PE1804: Halt Highlands & Islands Airports Ltd's Air Traffic Management Strategy, and will take evidence from Inglis Lyon, Managing Director Highlands and Islands Airports Limited;

PE1855: Pardon and memorialise those convicted under the Witchcraft Act 1563;

PE1860: New legislation for Prescription and Limitation Act;

PE1895: Mandatory accountability for Nature Scotland's decision making procedures;

PE1912: Funding for council venues;

PE1913: Fast-track future Adult Disability Payment applications for people undergoing cancer treatment;

PE1917: Provide full legal aid to all parent's fighting for access to their children;

PE1925: Bring the HGV speed limit on major trunk roads to 50mph in line with other parts of the UK.

3. **Annual report:** The Committee will consider a draft annual report for the parliamentary year from 13 May 2021 to 12 May 2022.
4. **Work programme (In Private):** The Committee will consider its work programme.

## Papers for this meeting

The papers for this meeting are:

### Agenda Item 2

PRIVATE_PAPER	CPPP/S6/22/9/1(P)
PE1804	CPPP/S6/22/9/2
PE1804_Questions	CPPP/S6/22/9/3(P)
PE1855	CPPP/S6/22/9/4
PE1860	CPPP/S6/22/9/5
PE1895	CPPP/S6/22/9/6
PE1905	CPPP/S6/22/9/7
PE1912	CPPP/S6/22/9/8
PE1913	CPPP/S6/22/9/9
PE1917	CPPP/S6/22/9/10
PE1925	CPPP/S6/22/9/11

### Agenda Item 3

Annual Report	CPPP/S6/22/9/12(P)
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### Agenda Item 4

Work Programme Paper	CPPP/S6/(P)
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## Contact details for the clerk

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# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday  
18 May 2022

## PE1804: Halt Highlands & Islands Airports Ltd's Air Traffic Management Strategy

### Note by the Clerk

**Lodged on** 6 May 2020

**Petitioner** Alasdair MacEachen, John Doig and Peter Henderson on behalf of Benbecula Community Council

**Petition summary** Calling on the Scottish Parliament to urge the Scottish Government to halt Highlands & Islands Airports Ltd's Air Traffic Management Strategy Project to conduct an independent assessment of the decisions and decision-making process of the ATMS project.

**Webpage** <https://petitions.parliament.scot/petitions/PE1804>

### Introduction

1. At its meeting of [2 February 2022](#), the Committee agreed to write to the Civil Aviation Authority (CAA) and to hear evidence from the petitioners, Prospect and Highlands and Islands Airports Ltd, at a future meeting.
2. The Committee last considered this petition at its meeting on [4 May 2022](#). At that meeting the Committee took evidence from the petitioner, Peter Henderson and from David Avery of Prospect.
3. At the meeting on 18 May 2022 the Committee will take evidence from Inglis Lyon, Managing Director of Highland and Islands Airports Ltd.
4. The petition summary is included in **Annexe A**. The Official Report of the Committee's consideration of this petition on 22 February 2022 and 4 May 2022 is at **Annexe B**.

5. Prior to the evidence session on 4 May the Committee received new responses from the Civil Aviation Authority, HIAL and Prospect which are set out in **Annexe C**.
6. Written submissions received prior to the Committee's consideration on 4 May can be found on [the petition's webpage](#). All written submissions received on the petition before May 2021 can be viewed on the petition on the [archive webpage](#). Members may wish to note that this includes correspondence with airlines operating routes in the areas covered by this petition.
7. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
8. The Scottish Government's initial position on this petition can be found on [the petition's webpage](#).
9. A private SPICe questions paper has also been supplied to Members for this week's evidence sessions.

## **Action**

The Committee is invited to consider what action it wishes to take.

### **Clerk to the Committee**

## Annexe A

# PE1804: Halt Highlands & Islands Airports Ltd's Air Traffic Management Strategy

## Petitioner

Created by Alasdair MacEachen, John Doig and Peter Henderson on behalf of Benbecula Community Council

## Date lodged

6/05/2020

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to halt Highlands & Islands Airports Ltd's Air Traffic Management Strategy Project to conduct an independent assessment of the decisions and decision-making process of the ATMS project.

## Previous action

This issue has been raised with Liam McArthur MSP, Alasdair Allan MSP and Rhoda Grant MSP. It has also been raised with Alistair Carmichael MP and Angus Brendon MacNeil MP.

## Background information

We call on the Scottish Government to:

1. Halt HIAL's ATMS project and conduct an independent assessment of the decisions and decision-making process of the whole ATMS project and its potential safety, economic & quality of service impacts, and make recommendations on the options for ATS provision at HIAL airports accordingly. ATCOs at all HIAL airports should be called on for evidence, as the only experts in air traffic control at HIAL airports.
2. Instruct HIAL to suspend their policy on changing the Air Traffic Services provision at Benbecula and Wick until the UK Civil Aviation

Authority (CAA) have published their own official guidance to UK Air Navigation Service Provider's (such as HIAL) on the effects of European Union Authority for Aviation Safety (EASA) policy on Air Traffic Control provision.

3. Conduct an independent islands impact assessment as under the Islands (Scotland) Act 2018 for all affected island communities. Highlands & Islands Airports Limited (HIAL) announced its remote tower air traffic management strategy (ATMS) involving seven of its airports in January 2018. A Business Case was approved by the Board in December 2019, which listed four main challenges to ensure the resilience of Air Traffic Control (ATC) operations and the continuation of safe, efficient air travel though the Highlands and Islands:
  - Low staff numbers and difficulties with resilience, recruitment and retention have, in some instances, led to airport closures
  - The changing regulatory environment and compliance with new policies on safe service provision requires change
  - The urgent need to modernise an ageing infrastructure and outdated methods of controlling air traffic
  - The need to create a competitive edge in the operation and ultimately deliver a more sustainable and cost-effective service

We believe that difficulties with recruitment and retention have existed only at a minority of HIAL airports. This can be overcome by local recruitment as suggested in Highlands & Islands Enterprise's EKOS report where it states that "grow your own"... [has] been successful for HIAL in recruiting – this should continue in some form to address future staffing requirements". HIAL ATCO salaries have in the recent past been considerably less than the industry standard and may have been a factor in the retention of staff at some of HIALs locations.

We agree that the changing regulatory environment and compliance with new policies on safe service provision requires change, however, we do not believe HIAL's ATMS provides the best answer for HIAL airports. The option chosen by HIAL is the costliest and riskiest as stated in their own Helios report.

We agree there is a need to modernise ageing equipment and infrastructure, but this could be done at each airport without the need to move the ATC service to a centralised facility or downgrading the Air Traffic service provision.

We do not agree that HIAL's plans for ATMS will deliver a more sustainable and cost-effective service. In fact, in the long term the reverse may occur due to the expensive new infrastructure itself needing to be replaced after a number of years of service in a hostile environment (climate) and the extra Air Traffic Engineering support required to maintain the day to day integrity of these new systems.

We believe that quality of service of scheduled flights to the communities served at the seven airports may be compromised due to the potential for an increase in flight delays, cancellations and airport closures at Stornoway, Inverness, Sumburgh, Kirkwall & Dundee due to:

- Communications failures / malfunctions between the remote airport & Inverness centre.
- Equipment failures / malfunctions at the Inverness Centre may lead to airport closures.
- Operational limits of cameras – the maximum wind speed they can operate in before camera shake makes visuals unusable
- Maintenance of cameras due to salt corrosion and scouring on the lens by wind-blown sand / particles. There will be delays in repairing outages of cameras and associated equipment as Air Traffic Engineering (ATE) support staff need to be detached in.
- Loss of runway availability – existing digital remote towers do not support cross runway operations. Some runways will be closed resulting in more flight cancellations due to cross winds.

At Benbecula and Wick airports the use of an Aerodrome Flight Information Service (AFIS) in non-visual conditions in particular, would cause a significant increase in the number of flight delays compared to the present ATC service. No positive deconfliction advice to aircraft pilots in the air is possible with AFIS. (An AFIS current Licencing and legal issue).

We believe that the proposals will have a significant long-term adverse economic impact on the communities of Caithness, Orkney, Shetland, and the Western Isles through:

1. The relocation or loss of well-paid and high skilled ATC jobs at HIAL airports, particularly within the more rural and 'fragile' communities, and the loss of spouse and partner's jobs from the communities.



2. Loss of ATC associated jobs, e.g. air traffic and admin support staff.
3. A reduction in customer confidence caused by extensive new delays, technical failures, safety concerns and airfield limitations.
4. In communities reliant on airport accessibility for economic activity, a 'downgrade' of the airports at Benbecula and Wick will result in a reduction or end of the use of the airport by the following (because the norm is an ATC service): -
  - Ad-hoc civil charter flights at Benbecula in support of the Hebrides Ranges.
  - Aeroplane manufacturers for test flights in non-visual conditions.
  - The potential for new scheduled operators to be attracted to these airports or a change in status with the present scheduled service operator.
  - Ad-hoc tourism flights

We believe the ATMS plans will reduce the safety of services provided at all airports operated by HIAL due to the following reasons: -

1. Currently Meteorological (MET) observations are carried out by Air Traffic Controllers or MET qualified support staff who use local knowledge of geography and topography to assess the MET conditions. Instruments can be used as an aid to observations if necessary. Due to limitations of MET instruments they can be incorrect and the MET observer can disregard readings when appropriate. MET observations under ATMS will completely rely on instruments which will create high risks in these very exposed airports where weather conditions can be a considerable hazard to aircraft.
2. The potential for reduced safety in the air at Benbecula and Wick:
  - A downgrade to Aerodrome Flight Information Service will result in pilots receiving only generic information on any conflicting aircraft, with the pilots themselves having to resolve any conflicts based on the information received. Positive deconfliction advice to aircraft in the air would not be possible due to current legislation and AFIS licencing. Air

Traffic Controllers provide a layer of safety which will be removed from scheduled passenger flights, ambulance flights, transiting military aircraft, private visiting aircraft and helicopters used by local businesses such as fish-farms.

- Benbecula has military Ranges in the vicinity, and both airports have nearby aeronautical Danger Areas which can, if active, affect aircraft flight paths and profiles in/out of these airports
- 3. By relying on new, largely untested technologies, we are exposing Air Traffic Services to a suite of new, never seen before safety risks and points of failure which do not exist within current operations. Historically HIAL have never done this because of the risk – we ask what is their rationale for changing policy now?
- 4. Multi-mode operations have been suggested by HIAL. This involves Air Traffic Controllers operating several airports and/or approaches simultaneously. This suggested concept is unproven and may come with additional safety risks.
- 5. Safety critical local knowledge of geography, weather, facilities and much more will be lost, replaced with a “remote Air Traffic Controller” who will lack such awareness.
- 6. Air Traffic Controllers currently look out a window to ensure the safety of aircraft in their vicinity. Seeing aircraft, obstructions, obstacles and everything else is more challenging when looking at a TV screen.
- 7. Situational awareness is essential to aircraft safety. A digital remote tower will compress a 360 degrees’ view across 270 degrees on the TV screens, making situation awareness far more difficult.
- 8. Being absolutely reliant on technology means technology failures will be another new risk factor which does not exist at present.
- 9. Cyber security – air traffic services across the entire Highlands and Islands region will be IT based. A cyber-attack against any part of it would have the potential to shut down the entire operation, exposing every aircraft to yet more new risks that do not currently exist.
- 10. The majority of ATC Staff are opposed to the proposed ATMS and if they refuse to move to the new centre it could be

necessary to staff it with ATCOs who have no previous experience at HIAL airports. HIAL have stated that they would consider training ATCOs from scratch with training provided by instructors who haven't worked at the airports concerned. This essentially removes decades of invaluable experience, training and safety management.

We believe the technical feasibility of this project has not been proven as the implementation and delivery of the remote tower and surveillance centre is the largest and most complex project HIAL have ever undertaken and yet the HIAL's Management team delivering the project, and HIAL's board who approved the project, do not have any civil aviation qualifications. The Scoping Study (Helios Report), the basis of the ATMS project, had many errors identified in it and these have not been corrected by HIAL or given sufficient answers as to mitigation.

## Annexe B

### Extract from Official Report of consideration of PE1804 on 2<sup>nd</sup> February 2022

**The Convener:** Our first continued petition is PE1804, which was lodged by Alasdair MacEachen, John Doig and Peter Henderson on behalf of Benbecula Community Council.

The petition calls on the Scottish Parliament to urge the Scottish Government to halt Highlands and Islands Airports Ltd's air traffic management strategy project and to conduct an independent assessment of the decisions and decision-making process of the project.

I am delighted to welcome Liam McArthur, who joins us online this morning, and Rhoda Grant, who is back with us in the committee room. Both are with us to speak to the petition.

Before I come to them, I will offer a little more background. The Scottish Government's latest submission provides an update following the assurance of action plan that was conducted in the week commencing 25 October.

The plan was set in the context of HIAL's announcement that a framework for discussion had been agreed with Prospect, the trade union, to establish a new way forward for the implementation of the ATMS programme.

It noted that programme delivery activities were largely paused to enable further delivery options to be appraised.

The submission confirms that the digital assurance office, the portfolio, programme and project assurance team and HIAL would continue to liaise to ensure that appropriate assurance arrangements are planned in as decisions are taken on the programme's direction.

In its most recent submission, HIAL explains that, as a result of those developments, all industrial action was suspended while talks continued. In addition, new ATMS working groups were established with 27 air traffic colleagues from across several airports to help detail the benefits and risks of a potential way forward. The first of those groups met on 6 December.

At the end of January, HIAL announced that the HIAL board had agreed "the future strategic direction for the ATMS programme. This will comprise a centralised surveillance operation for Sumburgh, Kirkwall, Stornoway, Inverness and Dundee airports, based at HIAL's existing approach radar facility on the Inverness Airport Site. Air traffic tower services will continue to be provided locally at each of these airports."

A late submission from one of the petitioners, commenting on the detail of that announcement, has been circulated to members. In summary, the petitioner raises

concerns about the timescales for the new developments; the £9 million that has been spent so far; the implementation of surveillance radar; the timeline for Inverness to be granted controlled airspace; whether HIAL intends to introduce controlled airspace at Dundee, Stornoway, Kirkwall and Wick and, if so, when; and moving Benbecula and Wick from air traffic control to aerodrome flight information service.

He is also concerned about what will happen to New Century house, the building that was bought to house the combined surveillance centre and remote tower centre. The petitioner asks the committee to correspond directly with the Civil Aviation Authority regarding the issues raised and would welcome the opportunity to discuss his concerns with the committee in person.

I understand that we heard from the petitioner two years ago. Like others, I got quite excited when I saw “Reporting Scotland” feature announcements in relation to the petition and thought that maybe we were seeing progress of some kind. However, the petitioners are underwhelmed, to say the least.

Before the committee considers the petition, ask Liam McArthur and Rhoda Grant whether there is anything that they would like to update us on, although we do not want to hear the original submissions all over again.

Mr McArthur, I will come to you first. Is there anything that you would like to update us on?

**Liam McArthur (Orkney Islands) (LD):** I will try to be as brief as possible, convener. The petitioner has set out very well some of the remaining issues.

For example, it is not at all clear where the idea of radar surveillance has come from. It certainly begs some questions about the £3.5 million that was spent on New Century house, which now seems to be a rather expensive white elephant in relation to ATMS.

That speaks to the concerns that both Rhoda Grant and I, and, more importantly, the petitioners raised about the incremental costs that have been incurred through the process on an objective that was seen as the only show in town but which has miraculously now been temporarily dumped.

There is an on-going concern that HIAL may simply dust down the remote tower proposals four or five years down the line and seek to reintroduce them.

The other point that I stress is about the extent to which HIAL is relying on co-operative surveillance.

There have been some suggestions from HIAL that that was up and ready to go, but that has been refuted by the CAA. It would be interesting to hear HIAL’s response to that challenge, because, fundamentally, if the CAA is not convinced, it will not get off the ground.

There are many questions that remain to be answered. The immediate risk to jobs on the islands and at the other airports is to be lifted, but there is some deep anxiety about the medium to longer term.

There is also anxiety about HIAL's handling of a project that seems to have been calamitous and which looks set to rack up more and more costs at the public's expense.

If the committee were minded to hear directly from the petitioners and had time available in which to do so, that would be very valuable, in that more detail could be laid out on some of the issues that the committee could usefully continue to keep under review.

**The Convener:** Thank you very much, Mr McArthur. Has the immediate lifting of threats to jobs maybe underpinned Prospect's welcome? Have you had any contact with Prospect?

**Liam McArthur:** I think that that must be the motivation. We are at an impasse where, in a sense, HIAL was suggesting that installing remote towers was the only way of achieving the modernisation that everybody accepts is necessary for future air traffic services in the region.

Having reached an agreement that lifts that immediate threat to jobs, perhaps Prospect feels that things have been moved on. However, there is certainly an anxiety among staff at the local level that HIAL is buying the time that it was always going to need to achieve the remote towers.

I would be interested to know whether Prospect believes that that remains the case, but a number of its members, including staff in Orkney and, I understand, at other airports, remain anxious about the longer-term intentions of HIAL management.

**Rhoda Grant (Highlands and Islands) (Lab):** I agree with everything that Liam McArthur has said. The news that there has been a pause is welcome, because that is what Prospect was asking for and, indeed, what the staff and communities were asking for—they want time to look at the alternative solutions. Nobody is arguing that we do not need to improve safety; the argument was that HIAL's proposals did not provide additional safety but were about centralisation. They would cause huge economic damage without providing the safety that people want.

I would be grateful if the committee would look at a number of things.

The proposed discussions about Benbecula and Wick were overlooked because of the enormity of the proposals, which impacted all the airports.

There is concern that the downgrading of Benbecula and Wick will go ahead. Those airports need safe surveillance and locally based air traffic control.

Both Benbecula and Wick are looking at becoming satellite launch sites, so they need safe airspace. Benbecula is also host to QinetiQ's Hebrides range, which means that there is often a huge amount of air activity when tests are taking place.

The Hebrides range also provides a potential solution, in that it has radar. HIAL could work with the range to provide that in Benbecula. That would be a very affordable course of action that would not cause huge disruption.

One of the issues in all of this was the recruitment of air traffic control staff. The air traffic control staff in Benbecula tend to be young, so that airport has staff into the future. They are local people—they are not going to move anywhere. They will be lost to HIAL if it ends air traffic control at Benbecula.

There is also talk of a new island's impact assessment. Therefore, any downgrading of Benbecula should surely wait until that impact assessment has been done. That would be within the spirit of the law.

With regard to Wick, people will be aware of the closing of Dounreay and the need for an economic focus on the area. A lot of work is going on with renewables and with the maintenance of devices, but the area needs good air traffic links to other parts of the United Kingdom to be able to attract jobs. It is very important that it has a safe airspace. Indeed, we are trying to encourage more traffic there.

I will not repeat what the convener said about the CAA's comments, but it would be well worth the committee speaking to the CAA to find out what is happening, including about Wick perhaps being managed from Orkney.

There was some discussion about that, and the CAA was not keen.

HIAL used to be very good at staff recruitment. It used to recruit from local communities. It would train people up and those people stayed. HIAL had its biggest recruitment issue in Inverness, where people tended to be more mobile.

The committee should make HIAL look at that again and ensure that it starts recruiting again, because that is one of its reasons for stepping back—it says that if it cannot recruit, it will continue with the position as it was.

I know that the petitioners were keen to see Digital Scotland's second report published. HIAL has it so it would be useful if the committee would ask it to publish that report. There is also the centralisation of radar surveillance at Inverness. That does not make sense given that we are to have air traffic control at the airports, so how that decision was reached could be scrutinised.

I know that there are concerns in Shetland about that, because the airport there has its own radar and there might be an impact if radar were centralised at Inverness. I agree about the other issues that have been mentioned, such as the use of New Century house—I do not want to repeat everything.

**The Convener:** There are several increasingly focused and quite serious issues. Would anybody else like to come in?

**David Torrance (Kirkcaldy) (SNP):** The petition has been on-going for quite a while—since last session—and we have not been updated by the petitioner for a long time. I am sure that, like me, committee members have a number of questions that they would like to ask the petitioner and HIAL management. I would like to bring in the petitioner and HIAL management to give evidence so that we can ask those questions.

**Alexander Stewart (Mid Scotland and Fife) (Con):** I very much concur with that. We have looked at the petition in depth, but from the information that we have

received, it seems that there are more questions than answers. It would be useful to get the petitioner in. There are also questions to be asked of the CAA about what it is doing with HIAL. It would be useful to have some correspondence with the CAA about the co-operative radar system that has been discussed in the papers. If we are to understand the situation, we require more information. Liam McArthur and Rhoda Grant have given us a lot of detail. That has been very useful, but there are still questions that we can ask of the petitioner and the CAA.

**The Convener:** Mr McArthur would like to come back in.

**Liam McArthur:** I will be extremely brief, convener. I very much welcome the comments from the deputy convener and Alexander Stewart. As Rhoda Grant said, local recruitment is essential. HIAL almost made the process an exemplar when it last recruited locally. Since then, it has moved away from that model and sought to hire ready-made air traffic controllers. That was always a short-term fix, and it has left the company with some retention issues. It would offer staff at various airports some reassurance if HIAL were to embark on a local recruitment drive. The approach has proven to be the best way of not just recruiting but retaining staff. If HIAL management gives evidence to the committee, that is a point that could be very usefully put to them.

**The Convener:** In your role as Deputy Presiding Officer, you promoted Mr Stewart; my deputy convener is David Torrance.

**Liam McArthur:** I was talking about the deputy convener and Alexander Stewart, rather than the deputy convener being Alexander Stewart.

**The Convener:** Thank goodness for that. David Torrance was on the previous Public Petitions Committee, which heard from the petitioner. Given the recent developments, I am minded to fall in with the suggestion that we bring in HIAL. I think that we should write to the CAA in the first instance to get its views on the petitioner's latest concerns. I would quite like to get some information from Prospect about what underpins its welcome for the developments and where it now sits in the process. It may well be that that would lead us to invite Prospect to give evidence as well. Are there any other suggestions? Does what I have proposed seem reasonable?

**Paul Sweeney (Glasgow) (Lab):** I would be interested to hear from airspace operators—the main scheduled carrier, which is Loganair, and others who use the airspace, such as the training school at Dundee airport—to understand what their concerns might be. I do not think that we have heard anything from them.

**The Convener:** Thank you. I was going to ask the clerks whether that had been covered by any evidence. I ask the clerks to review that and see whether there is scope to follow up on Paul Sweeney's suggestion, as I think that that is another facet of the approach that has to be understood. I do not think that there is anything for us to write to the Minister for Transport about at this stage. Are members content to take evidence as proposed in the first instance?

*[Members indicated agreement].*



## Extract from Official Report of last consideration of PE1804 on 4th May 2022

**The Convener (Jackson Carlaw):** Good morning and welcome to the seventh meeting in 2022 of the Citizen Participation and Public Petitions Committee.

We will take evidence for the first item on the agenda, which is consideration of continued petitions. The first of those is PE1804, which was lodged by Alasdair MacEachen, John Doig and Peter Henderson on behalf of Benbecula community council. The petition calls on the Scottish Parliament to urge the Scottish Government to halt Highlands and Islands Airports Ltd's air traffic management strategy project and to conduct an independent assessment of the decisions and decision-making process of the ATMS project. We last considered the petition on 2 February, when we agreed to write to the Civil Aviation Authority and to hear evidence from the petitioners and Prospect at this meeting, and from HIAL at our meeting on 18 May.

I am delighted that we are joined by the two representative MSPs—Rhoda Grant and Liam McArthur—who have been following the petition at its various torturous stages of progress through our proceedings. I welcome Peter Henderson, who is joining us virtually and is one of our petitioners who will give evidence.

I will ask members whether they have questions that they would like to explore with Peter. Peter, is there anything that you would like to say before we launch into our questions?

**Peter Henderson:** I still have some concerns that I would like to raise. I do not know whether you would like to hear them. I was hoping that someone from HIAL would be at the meeting to answer my points, but they do not seem to be.

**The Convener:** We will move to questions, because that may bring out some of the reservations that you still have. We will see what comes up as we do that. The first question tees that up. What concerns do you have about the agreement between HIAL and the Prospect trade union on the future development of air traffic control? How might those concerns be addressed?

**Peter Henderson:** The first point is that, on page 11 of the digital assurance office's "Technology Assurance Review, Assurance of Action Plan", which was published in October 2021, it says: "It has become evident from the RTS procurement and the SCS RIBA 3 design that the Programme in its current form, exceeds the programme budget" of £48.4 million. I was hoping that HIAL could explain that, because I think that that is probably what drove it back to the negotiating table, rather than anything that the committee or the petitioners have said.

**The Convener:** You want to know whether the change of heart was cost driven rather than being a "Mea culpa, we might have got it wrong" change of heart.

**Peter Henderson:** Basically, I would like to know whether the remote tower procurement process and the design of the remote tower centre at New Century house played a part in the decision to write off the entire programme, rather than anything that we have done. I suspect that that is the truth.

Secondly, HIAL was due to take over the running of the Sumburgh radar from NATS—the national air traffic service—last September. You would think that it is pretty straightforward to transfer an existing radar service into HIAL's control. It was due to take over in September, then in December, then in April 2022. Nobody now knows when, or whether, it will take over the Sumburgh radar from NATS. The story seems to be that it has recruited nine controllers but has not managed to train them and some of them have left. HIAL might not take over the radar until a year from now, which seems to be a bit disastrous, considering that it wants to have a centralised radar service that is based in Inverness. If it cannot recruit staff for one airport, how can it recruit staff for all the airports and guarantee that it can provide a service? Inverness airport already struggles to provide control; the radar part of it shuts twice a day every day, and probably will do so for a year.

My worry is that, if HIAL centralises all radar services, which airports will it prioritise? Will it prioritise Inverness over all the other airports to make sure that it can provide a service there? Will it shut other airports in order to man Inverness and Sumburgh? I do not believe that it is capable of running a centralised service, which is what it wants to do. It cannot staff, recruit or train for Inverness or Sumburgh at present, so how can it do that for all the airport systems?

**The Convener:** I will pause you there. You have looked for an independent assessment. What do you think that that would deliver?

**Peter Henderson:** I think that it would shine a light on the situation. We have a team that has been appointed by HIAL and we have existing HIAL management. It has been exhibited that the ATMS project, which it said was the only way forward, has failed miserably. HIAL still wants to progress an air traffic management system that centralises services. It seems to be failing to do that at the moment. The current management and the teams that are in place do not seem to be able to run that properly. I would like someone from the outside to ask why that is the situation and why there is still a threat to the reliability of our air traffic services.

We do not seem to have progressed. The ATMS still exists in principle. The aims are changing, but HIAL still seems to want to centralise rather than start from scratch and have a proper look at it. None of the project has worked, but HIAL still keeps stumbling on with the same people making the same decisions.

**The Convener:** How should HIAL have approached the development of the project in the first place?

**Peter Henderson:** By listening to its staff and the communities, which it refused to do. That is why we brought the matter to the committee and why our politicians, community councils and councils backed us.

HAL is now engaging with the staff because it was basically forced into that situation. The union, Prospect, is now actively trying to sort out the mess that has happened. However, it seems that a whole new ATMS is being developed without any oversight from anybody outside HAL, as far as I can see.

**The Convener:** It is plain from the subsequent submissions that you have made that concerns were expressed. What was HAL's response to and management of those concerns like?

**Peter Henderson:** Initially, HAL ignored everything and said that the ATMS was the only way forward. There was a sudden change of heart, which I suspect was brought about by budgetary constraints, which meant that it could not achieve anything, and now it is looking for a way out so it decided to negotiate. HAL has not been honest and open about anything all the way through, as we have found out.

**The Convener:** My final question sits on the back of evidence that we have received. What evidence do you have that the Civil Aviation Authority would authorise anything that was unsafe?

**Peter Henderson:** It will not authorise anything that is unsafe, but we were at a meeting with the CAA regulator, who summed up the situation by saying, "If you came to me and said that you wanted to fly a rocket to the moon, I would say that, in principle, that was fine. If you then came back to me with a cardboard rocket, I would turn you down." HAL seems to be coming up with a cardboard rocket most of the time.

The CAA will not sign something off until the final phases. It has encouraged HAL to scope some trials of the surveillance system that it wishes to use. There has been no word on whether HAL wants to do those trials and foot the bill. It seems to be sitting back and waiting for regulations to change in its favour rather than actively seeking solutions.

The CAA should not sign off anything that is unsafe, but it will wait until the whole project has been decided on and then sign off on whether it will accept it. It does the same with controlled airspace. You can put everything in place, but the final judgment is down to the CAA. If it decides that something is not suitable, it will tell you why and you can then either try to change it or not.

HAL is trying to operate outwith existing regulations. It is new territory, for which HAL needs to fund solutions.

**David Torrance (Kirkcaldy) (SNP):** Good morning. How would you like HIAL to involve communities that are served by its airports in the development of future plans and proposals?

**Peter Henderson:** Rather than coming out with a done deal, it needs at least to put out a public consultation in much the same way as other Government departments do. It should say what its aims and goals are and ask the public whether they want to comment on them. A consultation should mean just that: HIAL should listen to what people say and have a conversation with them.

On the islands, we want a good, reliable service that does not let us down. Coming up with ideas that remove all the resilience from our local areas is not good. HIAL just needs to be a little bit more open. It has not been. It just seems to make a decision and expect everybody to go along with it.

**David Torrance:** I have one final question—this is your opportunity to raise issues. The committee will take evidence from representatives of HIAL and Prospect. Are there any issues that you would like us to raise with them and, if so, why?

**Peter Henderson:** When the digital assurance office's assurance of action plan says that the remote tower procurement and RIBA 3 design mean that the programme "exceeds the current budget", does that mean that two aspects of the entire project cost more than £48.4 million, and is that what drove HIAL back to the negotiating table?

Why is the takeover of Sumburgh radar a mess and way behind schedule? If HIAL cannot take over an existing radar service for an airfield, how can it be expected to run a centralised radar service for all the airfields?

In evidence that HIAL submitted previously, it said: "None of the petitioners are directly involved in the programme or directly impacted by it".

However, we are impacted by everything that HIAL does, because we live in the communities that its airports serve. Had we been involved from the beginning and if HIAL had listened to us, which it refuses to do, the programme might not have developed into the mess that it is.

I have a problem with HIAL management still being the same people who are still making the same bad decisions and trying to run a project. I hope that those people have learned their lesson. As Prospect said, I hope that HIAL will work with and listen to the people, rather than continuing with the bull-headed approach that it has taken.

We have achieved an awful lot. The ATMS programme is basically dissolved—there is nothing much left of it, so that has served our purpose. However, I think that it would have failed anyway, purely on cost, without our even intervening.

**David Torrance:** Thank you.

**The Convener:** We will meet HIAL on 18 May, so we will be able to put some of the points that you have raised to it directly. However, we have received strong representation from HIAL that the change is not window dressing and that, whatever the motivation—we can chase that up—it is not simply a cover in order to bring back the proposal that has been set aside in five years' time. That position is quite robust and clear in the submission from HIAL. As petitioners, do you accept that?

**Peter Henderson:** I had hoped that, because I asked the questions in the way that I did, HIAL would come back in a robust way and make it clear that it would not revisit the issue, because it was still a bit vague. For example, HIAL still wanted to have a remote tower at Inverness, and I could not see the reason for that.

We probably now accept that HIAL will not go ahead with ATMS, as it said. As I said, we have achieved a lot, but most of the programme has collapsed. HIAL still seems to want to have controlled airspace and radar at some of the airports, which is fair enough. It has withdrawn the applications to the Civil Aviation Authority for the airspace changes. When HIAL has redrawn the ATMS proposals, we will find out where it intends to go. However, when it comes up with its plan, I ask it please to make that plan very public, to run it by the communities and to ask for our input and ask us whether we think that it is okay.

**Alexander Stewart (Mid Scotland and Fife) (Con):** You have talked about openness and honesty in the process. It is evident from the concerns that you have raised that the community feels that it has not been listened to and has not had the impact that it wanted in the process. You said that you hope that lessons have been learned. How did the management handle the concerns that were expressed about the proposal initially? Were the proposals completely flawed from the beginning, or were there areas within what was produced that the community might have been open to? Would the community have been willing to participate in the process?

**Peter Henderson:** Basically, every single point that we raised initially was rebutted with the reply that ATMS was the only way forward, and there were no other ways—we were told that, without it, nothing else could be done, so HIAL had to do it. The islands impact assessment was very negative about the effects on all the islands, but HIAL said that all it needed to do was mitigate the effects rather than address the problems. There was constant rebuttal of anything and everything that was said, whether by staff or by MPs and MSPs. It has all been in the newspapers, in the evidence that has been submitted and all over the place. There was then a sudden change.

In relation to ATMS modernisation, it would be extremely useful to have radar or some form of surveillance at the airports, but taking people out of the airports was a step too far. When I worked for HIAL, I can remember me and colleagues laying out our concerns. We would raise safety concerns and be told that it was a matter of

opinion, so I left—I could not take it any more. I thought, “They won’t listen. What’s the point?” When there is a culture of not listening, you stop raising concerns, which is a worry.

Even though Benbecula community council did an extremely good thing, there is no word yet on whether Benbecula air traffic control will continue. The story seems to be that it will, which it should, and the same is true of Wick air traffic control, but we need something concrete about that.

**Alexander Stewart:** You mentioned the opportunities that the community has had. The community ought to be congratulated on its endeavours, because it has highlighted the issue. You have worked with politicians and other groups in the community to ensure that the issue has been kept live. That is to your credit. What do you want to be done differently? What do you want HIAL to try to achieve with its proposals for the future?

**Peter Henderson:** Basically, there has been an outcry, with people asking why there cannot be people who live in the communities on the boards of organisations such as HIAL and CalMac Ferries. If you have people who live in the community, interact with it and get feedback from it, as is the case with MSPs and MPs, it is possible to feed in directly to them. People who are remote do not understand what we are going through.

All the airports are run as individual airports, but HIAL needs to get some feedback from the customers—if it decides to make a change, it needs to examine whether that change will be for the better or the worse. It is difficult to say how it should go about doing that, but it could put the issue in the local papers or make some sort of announcement.

All I know is that, with everything that it has done, HIAL’s approach has been simply to stonewall. Its attitude has been, “We’re doing this and we don’t care what you say.” Often, the people who work at the airport, who live in the community, are the best measure of what the community feeling is. HIAL just needs to listen to what its staff say, and I fear that it still does not do that.

I could go to my airport manager and say, “This is all a complete shambles”; in fact, at Kirkwall, we got the board members in, talked to them directly and said, “This will never work as you want it to—it’s a mess.” Their response was, “Yeah, yeah—we’ll look into it,” and they continued anyway. What are you meant to do?

**Fergus Ewing (Inverness and Nairn) (SNP):** Good morning, Mr Henderson. I joined the committee only recently, so please forgive me if this question covers ground that might already have been covered in the history of the petition thus far. You are asking for an independent assessment to be carried out. Who do you think could conduct such an assessment? How might that person or persons be appointed?

I ask because it seems to me that the Civil Aviation Authority has the role of conducting a proper assessment of any proposal. Given that it is the statutory body that is charged with the responsibility of regulating air safety in the United Kingdom, and given the critical importance of that function, it is not immediately obvious to me who else could be expected to carry out an assessment of a system that, at the end of the day, is designed to protect people against air accidents, which would almost certainly result in fatalities. I would like to get a sense of how, in practice, an independent assessment could be carried out and who could do it.

**Peter Henderson:** The CAA oversees rules and regulations regarding aviation, so when it comes to safety it is the ultimate arbiter. When it comes to throwing money at a project that was never going to work, which is funded by the taxpayer, is damaging to communities and is run by an organisation that refused to listen to the concerns of its own staff, I suspect that somebody in the Government—because the Government and Transport Scotland fund HIAL—needs to look at how decisions on services that are provided at airports are made and at the ideas that are bandied about.

There is an aviation safety aspect to everything that HIAL comes up with, but to centralise staff to Inverness and to decide to take over an existing radar contract from NATS at Sumburgh, which has run reliably for decades, only to find that it cannot even staff it so that the contract is a year behind schedule, are managerial tasks that seem badly handled.

Ultimately, the HIAL board is meant to examine the management of HIAL and pull them up on mistakes that they have made. However, the HIAL board obviously just rubber-stamps stuff, as it has done all along. It does not seem to understand the things on which it signs off. Is there not a Government—

**Fergus Ewing:** I am sorry to interrupt. I got the gist of that—it is more a question about the financial and managerial aspects of how HIAL has failed thus far, as you see it. To be clear, in your view, should it be somebody in the Scottish Government who carries out that independent assessment?

**Peter Henderson:** I believe so, because £9 million have been chucked down the drain on something that we said all along would not work in the way that HIAL wanted it to work, but we were basically told, “It’s the only way—it’s my way or the highway.” That is not a way to run an organisation.

**The Convener:** That has been very helpful. I thank you for your persistence in pursuing the petition.

We will see HIAL on 18 May, so we will be able to pursue some of your specific questions with the organisation then. I thank you for your time this morning, Mr Henderson.

*[Meeting suspended]*

**The Convener:** Welcome back. We move to our second witness on PE1804, on HIAL's plans. I am delighted to welcome David Avery, from Prospect, whose name has been referred to and brought up numerous times in our deliberations. You are very welcome to the meeting.

We have read Prospect's most recent response to events in our papers ahead of this morning's session, so we will move straight to questions.

**Paul Sweeney (Glasgow) (Lab):** Welcome to the committee, Mr Avery, and thanks for the submission on behalf of your members in HIAL. How confident are you that the arrangements for the development of a new air traffic control strategy will produce results that are acceptable to your members in HIAL?

**David Avery (Prospect):** I am reasonably confident that the new direction is far more palatable than where we were before. It was not our members' preferred choice—they would have preferred local deployment—but the new direction has achieved all our goals around protecting local jobs and preventing the downgrade of two airports. We have been given assurances that that will be the case for at least five years. If we consider that HIAL is a Government body, which is subject to ministerial direction, five years is a reasonable guarantee of no change.

On whether HIAL is able to deliver, I hope that it is better able to deliver this system than the previous one. This system replicates the one that HIAL has had in Sumburgh for decades. It involves established technology and procedures; the remote tower project proposed by HIAL did not. This system is far simpler and far more likely to be delivered. That is still not easy, but the system has a better chance of delivery than HIAL's previous proposals.

**Paul Sweeney:** In your submission to the committee of 7 March, you said that working groups on the future of air traffic control, particularly at Wick and Benbecula, were yet to be established. Has there been any progress on that? Would you like to see that happen? Is there a need for that?

**David Avery:** I am pleased to confirm that the working groups have not been set up because they have not been needed. The company has given us the same assurance for both airports that there will be no downgrade of service for at least five years, at which point there will be a review. The review will look at the issue with an open mind, rather than with an aim to justify a decision.

Again, that is the goal that members have been seeking.

The airports are not the same—they have very different communities and needs. There will be two separate reviews, because the long-term solutions for the two airports will not necessarily be the same.

**The Convener:** When was the change of view in relation to Benbecula confirmed? That is quite recent and not something that we were aware of from our papers.



**David Avery:** It was subsequent to the last submission that was made. I do not have the exact date. I think that the Benbecula one may have been about four weeks ago and the Wick one is very recent—within the past week.

**Paul Sweeney:** The main consideration for a lot of people in relation to the changes has been aviation safety. What is your union's position on the implications of the changes in air traffic control for aviation safety?

**David Avery:** Our view has always been that radar is a welcome improvement. It is a vital safety tool for any controlled airspace with any scheduled commercial traffic. It will provide an improved safety service and, potentially, open up markets to other airlines that are not prepared to fly without radar. We see all of that as a positive. Controlled airspace is welcome, too. There is acceptance that, were those two things to be done, procedural control could be phased out. That is not something that members are opposed to, assuming that it is done safely and in the right way.

There has always been the aim to seek to make safety improvements. Where we disagreed was on how HIAL was intending to do that and, ultimately, whether remote towers would bring their own set of problems with them.

**Fergus Ewing:** Good morning, Mr Avery. Can any lessons be learned by HIAL about the way in which it has handled the whole thing?

**David Avery:** Absolutely. I hope that HIAL and, indeed, other organisations have learned lessons about the involvement of staff and communities, and being more sceptical of consultants. I have been very critical of the fact that HIAL kicked off the project without public consultation. There was very little staff consultation—frankly, the views of staff were disregarded. The justification for the case was based on the report of one consultant, and that was not the direction in which the rest of the industry was moving. No major remote towers, in the way that HIAL intended to do them, have been announced anywhere else in the UK in the past five years. HIAL's original view was that it was at the bow wave of a tide of change, but that is clearly not the case.

The project has never been subject to public consultation. It involved a major change in the service and in the way that air traffic would be delivered.

I think that there still should be change, but the time to do that would be at the point at which the Transport Scotland infrastructure board has approved the case.

**Fergus Ewing:** As I said earlier, the petition has quite a long history. I have only recently become a member of the committee, but I have been aware of, and have followed, matters. It is plain that progress has been made, partly as a result of the work that Prospect has done and the engagement from MSPs and the petitioners. Do you feel that that progress has covered some of the defects— as you see them— that you have just described? In other words, are you confident that, going into the

future, HIAL will listen more to staff and engage more with communities? As I understand it, you have been in the thick of it.

**David Avery:** I hope that that will be the case. HIAL is involving staff far more in the current phase of the project. I am not sighted on community engagement in particular. Currently, the work is of a pretty technical nature rather than the kind of work that we would want to take out to communities for discussion, but that will come in the future. In particular, communities would rightly want to have a view on questions around schedules, deployment, staffing levels and opening hours.

**Fergus Ewing:** Yes. Those issues are hugely important to all the islands that are served by HIAL with what are, in many cases, lifeline services.

What about the financial side? Do you have an idea of how much HIAL has spent on the now-aborted air traffic management strategy?

**David Avery:** No more than what is in the public domain. The papers that I see do not include commercial in confidence numbers, and I would not be able to discuss those. I would suggest that that question needs to be put to HIAL.

**Fergus Ewing:** Okay. Do you think that those figures should be made public, or are there good reasons why that should not be the case?

**David Avery:** It is not for me or the union to say whether they should or should not be. It is a public project, and there has been significant expenditure on it, so it is worth looking into some of the decisions that have taken us to this point. That would include the costs incurred.

**Fergus Ewing:** We heard earlier from one of the petitioners, who confirmed that he felt that the Scottish Government should take charge of an independent analysis. That surprised me a little, because I had thought that he had perhaps envisaged an individual analysis that was independent of not only HIAL but the Scottish Government. Be that as it may, if you think that the project should be analysed and that the costs incurred to date should be studied, do you have an idea of who the right person or the right body to do that work would be?

**David Avery:** I have thought about that only recently, having listened to Peter Henderson's evidence. My view is that it should probably be Audit Scotland. You do not need to be an aviation expert to look at the problems in the project. I am not an aviation expert—professionally, I am a scientist—but I have learned a lot, having dealt with the project for five years. Advice on specialist issues relating to information technology, air traffic engineering, air traffic control and so on can be sought from various learned sources. The questions around decision making, finance, confidence and risk and management of risk are the types of questions that Audit Scotland is professionally able to deal with.

**Fergus Ewing:** That is very helpful. If you have further thoughts after the meeting, given that these questions are being sprung on you, we would be very keen to receive them.

**Alexander Stewart:** Mr Avery, you have talked about the lack of communication and consultation with staff and communities in the whole process. How are industrial relations progressing? What impact has the handling of the whole affair had on industrial relations between HIAL and Prospect?

**David Avery:** HIAL is very different from almost any of the organisations that I deal with, and it always has been. I have been involved with it for seven years, so I was involved with it for a significant time before the project began. My predecessor, who had dealt with HIAL for far longer, expressed the same view. It is the only air navigation service provider that is run under public ownership in that manner, so its situation is not analogous to that of Prestwick or NATS, which are run as private companies. HIAL is run as a public body, but it is not like any of the other public bodies, because it has significant commercial elements and highly operational staff. Its aim is to achieve service delivery in a way that most other public bodies do not seek to do. HIAL was already a difficult company to deal with because of those challenges.

Industrial relations have been strained, but we have never fallen out or stopped talking—we have always had good discussions, even through the industrial action periods. I hope that, given the new engagement with staff, there will be more staff involvement in decision making, not just within air traffic but across the board in HIAL.

**Alexander Stewart:** You talked about lessons being learned in the process. It is vital that lessons be learned about how to manage the staff and industrial relations in the future. What would you like HIAL to try to achieve to ensure that that becomes a reality?

**David Avery:** I would like HIAL to involve its staff at whatever level whenever it makes any decisions that relate to staffing or service delivery. Whether the decision is about a change of opening hours, a change in a security protocol or something big, such as air traffic control changes, the staff who are involved in the delivery of the service should be involved in it. I would also like the communities to be involved and things not just to be sprung on them as what HIAL is now going to do. I hope that that change will happen, but HIAL is a large and difficult organisation because of the disparate nature of multiple airports, so it will not happen overnight.

**The Convener:** Mr Avery, we explored with the previous witness what has brought about the change of view in HIAL. He was sceptical that it was our investigation into the matters, our representations or your representations, and he thought that it was all down to a realisation that the costs involved in the project were no longer sustainable. What do you think the cornerstone of HIAL's change of approach is?

**David Avery:** I have to say that I was not inclined to look a gift horse in the mouth and question HIAL's motivations when it came to us for a discussion on a more positive note, given the previous five years, in which there had been no discussion about the strategic direction.

It is probably not one thing. I hope that the HIAL board's view on why a change of direction was necessary was not down to any one factor. I think that it was the result of a combination of the committee's work, the industrial action from staff, the islands impact assessment, the constant negative stories about HIAL—it was struggling to get any positive media coverage about other things that it was doing because the matter was driving them out—costs, and the fact that the project was still not going anywhere. Ultimately, it is very hard to implement such a project without the buy-in of staff.

**The Convener:** I invite our two parliamentary colleagues who have joined us and have been with us at various stages during our consideration of the petition over an extended period to ask you anything.

**Rhoda Grant (Highlands and Islands) (Lab):** Thank you, convener. I have a question for clarification. Prospect has worked well on the matter and I am pleased that we are where we are and are making progress. We talked about replicating the Sumburgh service. Peter Henderson, the petitioner, had some concerns about what might happen in Sumburgh with radar being centralised to Inverness. Does that have staffing implications and do you see issues with it?

**David Avery:** As Peter Henderson said, HIAL has hired staff in Inverness who are working on delivering the radar service for Sumburgh. It is being delivered as a so-called greenfield radar—as if it had not existed before. HIAL is not transferring any staff or procedures from NATS: it is being done almost from scratch. That is not an easy thing to do, so the regulator is rightly taking a significant interest. HIAL might well need more staff than it has. It will take as long as it takes.

The proposal is a far more achievable prospect than the previous remote-towers proposition and at least replicates something that HIAL has already done. The controllers at Sumburgh do not have to learn new procedures; they are handing over to another provider—this time, in Inverness rather than Aberdeen—but there will not be a significant change for them. That is far easier to manage than what would have happened had HIAL centralised the tower and the radar.

**Rhoda Grant:** NATS currently operates the radar service for Sumburgh from Aberdeen. Is that right? No one is based in Sumburgh; there are no job implications for Shetland.

**David Avery:** There are no job implications at all—the roles of the staff in Sumburgh will remain as they are. As I understand it, the roles in Aberdeen can be redeployed

to other work in NATS—it has other work that it would like the staff to move on to when the HIAL contract ends.

**Liam McArthur (Orkney Islands) (LD):** I will make a couple of observations before I turn to the issue on which Rhoda Grant was pressing Mr Avery.

I still cannot get my head round the fact that we were told for years by HIAL management that its air traffic management strategy project was the only show in town and the only credible option. It has backed off from that much later in the day than I and many others hoped it would. Mr Avery's assessment that that is the result of a number of factors is probably fair, but the cost and delivery of the project were always seriously under question, which might well have driven HIAL back to the negotiating table.

However, there has been no reckoning with those who marched us up that hill then marched us back down again. The earlier point about Audit Scotland casting its eyes over the matter seems to be entirely sensible and reasonable. The cost is one component; another aspect is how decisions were made. The cost to the public purse is a real concern. I have had discussions with Audit Scotland, which suggested that that is more a matter for Transport Scotland to deal with. However, in a sense, Transport Scotland has skin in the game, given its responsibility for HIAL. I am keen to understand the extent to which Audit Scotland could provide satisfaction that due process was followed and that public money was not needlessly wasted, as appears to have been the case.

On centralising radar, which Mr Henderson mentioned and Rhoda Grant pursued just now, similar concerns, although they are a little different, are now being raised. Mr Henderson spoke about those concerns. The issue seems to fall into the same category—that is, it concerns a review or a decision that has been predetermined. Although it appears to be consulting more, HIAL is asking how to deliver what it has already determined that it will deliver. I wonder whether work needs to be done to get HIAL almost to go back to first principles.

HIAL might have delivered on that, but the matter is not completely alien to it. If the concerns that Mr Henderson raised are legitimate—they seem to be borne out by evidence—I would hope that the committee and Prospect, in its discussions with HIAL, might be able to persuade HIAL to go back to first principles and determine whether a centralised model for radar surveillance is more practicable and in the interests of the island communities that rely on the lifeline services. Does Mr Avery agree with that? Might Prospect be able to carry forward that approach in its negotiations?

**David Avery:** The preferred model of our members was local deployment, but they have agreed to a remote system from Inverness. You need to bear it in mind that I am not a controller, but my understanding of the technical feasibility of delivering radar from Inverness and delivering radar from a room downstairs in Sumburgh

tower is that they are not wildly different. The questions that you would have to ask are around procedure; validation of staff and training are largely the same. The challenges that HIAL would face doing a greenfield radar implementation on site—whether at Sumburgh or at any other airport—versus doing it remotely are the same.

Prospect, as a union, does not have a particular view about whether the associated jobs would be better based in Inverness or in Sumburgh—or, indeed, in Aberdeen, where they are currently based. There are Prospect members in all those areas; I would not want to speculate about which option was better than another.

I highlight that the greenfield radar application is genuinely a difficult thing to do. HIAL currently has only one radar base, which is at Inverness airport. Inverness is short staffed and cannot share the experience of those controllers in the project. Delivering the service is not easy, but that is a far more doable challenge than the one that HIAL previously embarked on. I do not take a view on the jobs question.

I will expand on the point about Audit Scotland. My previous industrial relations work involved the creation of Marine Scotland. Audit Scotland audited that when it was finished. That provided insights into lessons that can be learned from machinery-of-government changes. Audit Scotland is probably the appropriate body to look at the matter. As Liam McArthur said, Transport Scotland is involved in decision making in HIAL; it sits on the board and will, ultimately, sign off—or not—the changes to the project. I am not sure that it is in a position to audit itself.

**The Convener:** Does Prospect retain confidence in HIAL and its existing board?

**David Avery:** We have never put to our members the question whether they have confidence in HIAL's board, and I do not want to speculate on how they would vote, were we to do so.

**The Convener:** That is one gift horse that you are prepared to look in the mouth. Thank you very much. That has been extremely useful and helpful.

Colleagues, I think that we will probably consider the evidence afresh after we have met HIAL. Liam McArthur made general comments in addition to the points that we put to Mr Avery. Rhoda Grant asked a specific question. Do you have general comments to add for us to bear in mind before I draw the discussion to an end?

**Rhoda Grant:** I have a comment about community involvement. I have spoken to Prospect members and the like. They seem to be happier with their current involvement, but we have heard from Peter Henderson that he is concerned about community involvement. He is representing the community—albeit that he is doing so as a previous employee of HIAL. We need to get everybody on side. The issue is so important that we must ensure that, whatever comes from the discussions, there is buy-in from everyone, and that they all have confidence in the system that will be put in place.

**The Convener:** Do you have a final point, Liam?

**Liam McArthur:** I will make a final point to follow up what David Avery said about not having a particular concern about where radar surveillance jobs are based. I understand that, and that the primary concerns are that jobs are secure and well paid, and that training is in place. As representatives of the various communities that HIAL serves, we have an interest in where the jobs are based. If there are not overwhelming arguments for their being based centrally as is proposed, rather than being dispersed round the network, HIAL needs to explain why that is happening. The expectation should be that, as far as possible, HIAL and other public bodies disperse jobs around the region. Peter Henderson has also set out real concerns about the practicability of what is proposed.

**The Convener:** As that flag has been run up the mast, I will draw this evidence session to a conclusion. Thank you all very much. I suspend the meeting briefly.

*[Meeting suspended]*

## Annexe C

### Civil Aviation Authority submission of 11

February 2022

### PE1804/VV - Halt Highlands & Islands Airports Ltd's Air Traffic Management Strategy

Thank you for your letter of 7 February 2022 to Richard Moriarty where you sought, on behalf of the Citizen Participation and Public Petitions Committee, the CAA's views in relation to statements made in the petition calling on the "Scottish Parliament to urge the Scottish Government to halt Highlands and Islands Airports Ltd's Air Traffic Management Strategy Project to conduct an independent assessment of the decisions and decision-making process of the ATMS project."

Some elements within the text of the petition are beyond the remit of the CAA, so our view will be limited to those aspects that fall within our horizon. Namely:

1. The provision of surveillance capability to support the Air Traffic Management Strategy (ATMS),
2. The provision of services at multiple airports from one controlling position.

Aspects of the petition related to airspace change fall within the scope of the **CAP1616** process and progress for individual applications is made publicly available through the **CAA's airspace portal**.

Currently, surveillance throughout the UK is based on a set of layered surveillance capabilities made up of both cooperative (requiring both ground and airborne equipment such as secondary surveillance radar (SSR)) and non-cooperative (requiring only ground-based systems such as primary surveillance radar (PSR)). Although there are occasions when cooperative surveillance is the sole radar source used in the provision of an ATC service, these occasions are limited to those times when the primary (non-cooperative) radar has become temporarily unavailable. Currently **CAP670 - Air Traffic Services Safety Requirements states** that, below FL100 "All Terminal Control Areas



*shall have at least a single layer of coverage by a suitable non-co-operative surveillance technique". It further states: "non-co-operative surveillance is required wherever an ATSU providing surveillance-based air traffic services identifies that it is probable for non-transponder equipped aircraft, whether identified or not, to present a hazard to operations due to the uncertainty of their positions"*

Although, the text currently within CAP670 inhibits the provision of an ATC service based solely on non-cooperative surveillance, under the Civil Aviation Authority (Air Navigation Directions) 2017, as amended (the Air Navigation Directions), the Secretary of State has given the CAA the function to prepare and maintain a co-ordinated strategy and plan for the use of all UK airspace for air navigation up to 2040, including for the modernisation of the use of such airspace. **The Airspace Modernisation Strategy (AMS) – CAP1711** states that *"there are opportunities that allow for the phased modernisation of the UK's surveillance capability"*. Further developments to the Airspace Modernisation Strategy are currently under **consultation**.

While cooperative surveillance, as a standalone solution in the provision of air traffic services, is not something the CAA would consider in this case in the near term, the Airspace Modernisation Strategy strives to enable its wider use in the medium to long term and HIAL have been advised to scope trials or studies to assist in realising its benefits and bringing the Airspace Modernisation Strategy to life. The issues highlighted during the 12 January meeting relate to the timing of the implementation rather than overall possibility.

With regards to plans for a single controller to offer services at multiple airports simultaneously, the CAA considers the proposal to be feasible, but not without some limitations. HIAL are aware that there may be conditions or limitations placed on the ATC services offered by the proposal. HIAL have a mature and established safety management system (SMS) and have experience in implementing changes of this nature. Specific details of the change are not expected to be submitted to the CAA for some time, but the CAA will review the safety arguments related to the proposal when they are submitted. Any proposed change will be subject to approval from the CAA.

I hope the text above assists the Citizen Participation and Public Petitions Committee in their deliberations, at least in those aspects related to CAA activities.

## Highlands and Islands Airports Ltd submission of 3 March 2022

### PE1804/XX Halt Highlands & Islands Airports Ltd's Air Traffic Management Strategy

Following the meeting of the Citizen Participation and Public Petitions Committee on 2 February, we write to update the Committee on the outcome of the ballot of Prospect members on the future strategic direction for the ATMS programme agreed by the HIAL Board on 24 January.

The ballot closed on Monday 21 February, with the majority of HIAL's air traffic controllers accepting the new direction for the programme. We are pleased that our colleagues have recognised the level of engagement and the compromise position that HIAL and Prospect have worked hard to achieve.

There are fiscal and regulatory hurdles to overcome and moving forward we will continue to work closely with our air traffic colleagues and seek their input to develop the necessary detail.

We would like to take this opportunity to address some of the points raised by the Petitioners in their submission PE1804/UU and to address some of the points raised in the oral submissions given at the committee meeting held on 2 February 2022, from parliamentary members Liam McArthur and Rhoda Grant.

As we have previously informed the committee, we established new ATMS working groups to help detail the benefits and risks of a potential way forward.

The output from these groups was discussed by the Board when making their decision on 24 January.

Without wishing to reiterate our previously stated position, HIAL has resolved the impasse with Prospect and agreed a new way forward, which has now been approved by our air traffic colleagues.

This has taken compromise on both sides and all relevant parties are now focused on delivering a system that is safe and fit for purpose.

Once again, we reiterate that safety is paramount. At every stage, the Civil Aviation Authority (CAA) is informed of our plans.

Regarding cooperative surveillance and multiple endorsements, having received confirmation that the CAA see no regulatory impediment to either, HIAL will continue to develop proposals for scrutiny by the regulator.

The new proposal for a combined surveillance centre will bring all our approach services together under the one roof and enable controllers to operate approach services for multiple airports which increases resilience across the estate and is not uncommon in the UK.

We have also agreed with the union and notified the CAA that HIAL intends to phase out procedural air traffic control services and will move forward with more modern and widely used techniques, practiced globally.

To suggest that HIAL will “dust down” the remote tower proposals four or five years down the line and seek to reintroduce them is misleading and unhelpful.

Our goal in introducing remote tower technology was to provide an air traffic management system that would future proof air traffic provision and provide the overall resilience we believe the technology offers.

However, we acknowledge and respect the position of our colleagues, and have therefore agreed an alternative delivery strategy which has meant compromise on both sides.

In the medium to longer term, we cannot predict how the aviation industry and technology will advance in the years to come and that is why we have programmed in a review in five years against a framework, jointly agreed with Prospect to look at all aspects of ATC.

None of the petitioners are directly involved in the programme or directly impacted by it and we note that their opinion appears to be at odds with Prospect and the majority of HIAL's air traffic controllers who voted to accept the revised proposals for the modernisation of air traffic services in the Highlands and Islands.

## Prospect submission of 7 March 2022

### PE1804/WW - Halt Highlands & Islands Airports Ltd's Air Traffic Management Strategy

In October I wrote to the committee setting out an agreement between Prospect and HIAL to work together on a possible new direction for the modernisation of air traffic services in HIAL.

I am pleased that following a period of intense negotiation with the union and engagement with the workforce through joint working group a new way forward has been agreed. Prospect members voted to accept the offer in a recent ballot and the dispute is now resolved with one notable exception. The solution now being developed mirrors the arrangement which has been operating at Sumburgh for decades.

Local air traffic towers will remain at Dundee, Inverness, Kirkwall, Sumburgh and Stornoway with radar surveillance being delivered from Inverness at a facility on the airfield.

While this remains a challenging project from a regulatory perspective, the technology and process required are not novel, and the whole concept is several orders of magnitude easier to deliver than the previously proposed remote towers option.

The proposal protects highly skilled jobs in island communities. Any staff who wish to relocate to Inverness to work in the surveillance centre may of course do so, but those who wish to remain (which we believe is the vast majority) will be able to remain.

The new approach is not without difficulty: there remain a number of people challenges which we will work with the company to resolve, including agreeing a staff complement for each station which will ensure a long-term resilient service.

There also remain recruitment and retention challenges at Inverness, but not at other locations.

Working groups have been established to consider these issues. We have agreed a review at the five-year point. I have been clear with the company that members expect that the review will be conducted in a fair manner without a predetermined outcome.

If in five years' time the implementation of remote surveillance has been successful, there would be no business case to make further changes. We therefore do not view this as simply a delaying tactic to introduce remote towers by stealth.

The one remaining area of dispute is the downgrade of Benbecula and Wick aerodromes.

Our members are still of the view that this is neither required or desirable. They remain of the view that moving to a FISO service provides a less safe, less flexible service and would not be fit for the low carbon/electric flight vision proposed by the Scottish Government in its most recent consultation on the future of aviation.

A working group to consider the level of service at Benbecula and Wick has been proposed, but at time of writing we are yet to see the terms of reference. Benbecula was one of the only areas of the island impact assessment to show any positives for the remote towers project, however this was comparing the proposals for a FISO service with the total relocation of services to a remote tower centre.

Now that the company have accepted that local tower and centralised radar is a valid option, the impact of this assessment is no longer valid and the impact on Benbecula should be reconsidered as negative compared to both the status quo and the proposed future model of operation for the other ATC airports.

This has been a long running dispute that I am glad to see drawn to a close. I hope HIAL and indeed other organisations will learn lessons about the perils of not involving the workforce and the communities it serves in the strategic direction of the organisation.

The solution now being adopted was viable when HELIOS prepared their original report, but it has taken five years and millions of pounds of expenditure for that to finally be accepted.

# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday  
12 May 2022

PE1855: Pardon and memorialise those  
convicted under the Witchcraft Act 1563

## Note by the Clerk

**Lodged on** 17 March 2021

**Petitioner** Claire Mitchell QC

**Petition summary** Calling on the Scottish Parliament to urge the Scottish Government to pardon, apologise and create a national monument to memorialise those people in Scotland accused and convicted as witches under the Witchcraft Act 1563.

**Webpage** <https://petitions.parliament.scot/petitions/PE1855>

## Introduction

1. The Committee last considered this petition at its meeting on [23 February 2022](#) when it took evidence from the petitioners. At that meeting, the Committee agreed to consider the evidence it had heard at a future meeting.
2. Following the Committee meeting, the First Minister gave an apology, [during the debate on International Women's Day](#), to those people in Scotland accused and convicted as witches under the Witchcraft Act 1563.
3. In relation to the pardon, the Committee understands that Natalie Don MSP plans to bring forward a private members bill.
4. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.

5. The Committee has received a new response from the Petitioner, which is set out in **Annexe C**.
6. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
7. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
8. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

## Action

The Committee is invited to consider what action it wishes to take.

### **Clerk to the Committee**



## Annexe A

### PE1855: Pardon and memorialise those convicted under the Witchcraft Act 1563

#### Petitioner

Claire Mitchell QC

#### Date lodged

17 March 2021

#### Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to pardon, apologise and create a national monument to memorialise those people in Scotland accused and convicted as witches under the Witchcraft Act 1563.

#### Previous action

I have contacted local MSPs Joe Fitzpatrick and Jenny Marra.

#### Background information

I launched the Witches of Scotland Campaign on International Women's Day 2020. The campaign has 3 aims: to obtain a pardon for those convicted as witches under the Witchcraft Act 1563, to obtain an apology for all those accused and to obtain a national memorial to remember those killed as witches. Since March 2020, Zoe Venditozzi and I have been raising the profile of the campaign by our podcast which can be found on the website [www.witchesofscotland.com](http://www.witchesofscotland.com) which was set to support the campaign.

When standing in Princes Street Garden one day I reflected on the fact that there was no female visibility in the public space; no statutes to named women recording things that they had done. I then looked at the Nor Loch, which sits below the castle esplanade where 300 or so people were killed as witches.

Not only is history not properly recording what positive things women do, but their history is also erased by not properly recording their story. I

have a particular interest in Scottish legal history and the people who were caught up in accusations of witchcraft so I decided to start a campaign to restore these people, mostly women, to their correct place in history as women and men, not witches.

Between 1563 and 1736, the years when the Witchcraft Act was law, there were 4 relatively defined periods of “satanic panic” which resulted in approximately just shy of 4000 people being accused as witches. As with elsewhere in Europe, the vast majority of those accused, some 85%, were women. Confession to allegations of witchcraft were routinely obtained by torture, both physical and mental. The stripping and pricking of women was common, as was sleep deprivation. Most confessed and that was used as the basis for their conviction. Of all of those 4000, academics estimate that approximately 2500 were executed. The method of execution was by way of strangulation and then burning at the stake. In comparison to elsewhere in Europe, where witch trials also took place, Scotland had approximately 5 times the number of cases than elsewhere in Europe during this time. Alas, at finding and killing witches, we excelled.

The reason for each of the aims is separate but interrelated. Firstly, the aim of getting a pardon is to right, in so far as is now possible, the terrible miscarriage of justice that was suffered by the people who were convicted and executed as witches. It is universally accepted that such allegations and subsequent convictions ought not to have happened. We cannot overturn the convictions, but we can restore these people to history to remember them as people who were so wrongly dealt with by our criminal justice system, and not as witches.

Secondly, the aim of getting an apology is to obtain a public statement of regret for all those who were accused, including those who were not convicted. A pardon can only be granted to those who were convicted, but many had their lives irrevocably damaged by the allegation of witchcraft. Scotland’s most famous accused woman, Lillias Adie was accused of witchcraft and died a month into her remand in custody, most likely having suffered greatly by torture in order to try and obtain a confession. She, and many others deserve acknowledgement and apology.

The third aim is to obtain a national memorial to all those affected by the witchcraft trials; throughout Scotland there are local memorials, raised by people in their area to memorialise women remembered by them. I believe that it is appropriate for a national memorial to be built to

remember the history of all the people who were affected and to serve as proper reflection of the story of women and men in Scotland.

In passing the [Historical Sexual Offences \(Pardons and Disregards\) Act 2018](#), the Scottish Parliament set a precedent for righting historic wrongs and for pardoning those who were convicted of offences, including when those affected were no longer with us, to benefit personally from the pardon. This petition has the same desires. Recently, the Scottish Parliament stated its intention to pardon miners convicted during the 1984 miners strike. The Justice Minister made it clear that the pardon was to affect not only the living, but those who had died suffering a miscarriage of justice – and the aim of that pardon is to issue a collective and posthumous pardon. Again, the same is sought for those convicted as witches.

The only (muted) criticism which has met the campaign is that what happened to those convicted as witches happened a long time ago, and that there is no need to pardon them or to memorialise them now. We do not think these criticisms bear any great weight. History still records these people as convicted witches – justice demands that this is put right. History should properly reflect what these people were – innocent, vulnerable people, caught up in time where allegations of witchcraft were widespread and deadly. Further, as the Black Lives Matter campaign has shown in particular the response to the removal of statutes, people passionately care that their history is properly recorded and they are properly represented in the world.

Academics have explained that the almost universal rationale for accusations of witchcraft having been and continue to be made against women in particular, is that women, as the weaker sex, would be more susceptible to the devil's charms. The underlying rationale that women were inferior to men. Alas, women in Scotland and worldwide are still discriminated against – we have not yet achieved parity in many ways including the workplace, in wages etc. Misogyny remains an ever-present issue for women worldwide. Righting this wrong by pardoning and memorialising these women and men would be a mark against such views. As for the view that money could well be spent elsewhere, we do not think that the cost of an apology is significant; the work done in relation to previous pardons provide an immediately transferable template with which to legislate this pardon. Whilst a memorial may be of some cost it is in the most worthwhile cause, to record the history of Scotland's women and men.

Other countries have, over the years pardoned and/or memorialised those who were convicted of witchcraft, the following list not being an exhaustive one: Salem – who had a total of 19 convictions and executions (15 women, 4 men) have pardoned all those convicted and have a memorial garden which has a bench dedicated to each person who was killed). Norway has the beautiful and haunting large scale memorial in Finmark, which memorialises the 91 people killed as witches there. Germany has a significant number of memorials throughout the country.

The support for the campaign has been significant both at local and at international level. The Witches of Scotland campaign has engaged with groups who have obtained memorials, such as the Witches Trail in Culross. We have engaged in public discussion with the Edinburgh Civic Trust. Through the Witches of Scotland podcast we have reached thousands of people who have listened to the views of academics, writers (notably Sara Sheridan whose book “Where are the Women” inspired that same question in Princes Street Garden), artists who seek to memorialise women killed as witches, filmmakers who want to record the stories of women killed as witches, authors who have highlighted the need for memorialisation. The campaign has generated responses from artists and musicians who have begun their own memorialisation projects. We have significant support from the public online who have commented, shared, liked and listened to our campaign many thousands of times over.

We believe a pardon, apology and memorial are necessary as a reckoning for all those who suffered this terrible miscarriage of justice, and in this belief, we are supported by many.

## Annexe B

### Extract from Official Report of last consideration of PE1855 on 23 February 2022

**The Deputy Convener:** Agenda item 1 is consideration of continued petitions. PE1855, which was lodged by Claire Mitchell QC, calls on the Scottish Parliament to urge the Scottish Government to pardon, apologise to and create a national monument to memorialise the people in Scotland who were accused and convicted of being witches under the Witchcraft Act 1563.

When we last considered the petition, in January, we decided to invite the petitioners here in order to hear from them directly. I am therefore pleased to welcome Claire Mitchell QC, who joins us in the Scottish Parliament, and Zoe Venditozzi, who joins us remotely. Claire, do you have any initial comments?

**Claire Mitchell QC:** Good morning. Thank you for the opportunity to speak and to answer any questions that you have for us. We are delighted about the progress that has already been made on the bill. We watched with careful interest when it was first announced and we were delighted to note the positive response that it got. We are happy to be here today to answer any questions.

**The Deputy Convener:** Zoe Venditozzi, do you have any initial comments?

**Zoe Venditozzi:** I will just say thank you for having us.

**The Deputy Convener:** I will start the questions. What first led you to explore the experience of witches who were convicted in Scotland, and why did you feel that it was important to bring the petition before us now?

**Claire Mitchell:** I work as a lawyer, and I have specialised over past years in cases that involve miscarriages of justice. I therefore look through the lens of history at whether things that have happened are just and have been done correctly. I have always known the story of Scottish witches, but I was not taught about them in school. It is only later in life that I have come to look from an academic perspective at them and at what happened.

At around the same time that I was looking at them from an academic perspective, I was also reading a lot about the lack of representation of women in history—in particular, I was reading a book by a woman called Sara Sheridan: “Where are the Women? A Guide to an Imagined Scotland”. She reimagined Scotland as a place in which all the statues and all the street names are of women. It is like a guide book, in which you can read all the stories of the women that the streets have been named after.

A combination of learning more about my own history and the history of women in Scotland and looking at those witchcraft trials led me one day to look around in Princes Street gardens. There are no statues of women there; the statues are of men. There are memorials to men. It is right that we memorialise things such as people who have died in war, as memorialisation is important. However, we do not memorialise Scottish women's history properly. We are not properly recording the history of things that are not wars or battles. I went around Princes Street gardens and stood beside Wojtek the bear. I thought, "We have a full-sized statue of a named bear, but we do not have any women."

At that point, I looked up to the castle esplanade, where at least 300 women were killed as witches, and I thought, "Not only are we not recording the great things that women have done, and celebrating them in statue form and with the names of streets, but we are not recording what is a terrible history of things that happened to women in the past." I say "women", because 85 per cent of the 4,000 people who were accused under the 1563 act were women. I acknowledge immediately that there were men, but the vast majority were women.

At that point, I thought that there was a real issue with what happened with those women. I know that they were wrongly convicted; indeed, we all know that they were wrongly convicted. That is where the phrase "witch hunt" comes from. A witch hunt means that the person is being pursued for something that they did not do.

I looked around at other countries and saw that other countries have addressed their history. The Salem, Norway and German witch trials have been addressed. I thought, "Why hasn't Scotland done so?"

At that point, I wrote down the three things that I thought were important to get, one of which was a pardon for those who have been convicted of witchcraft. The effect of that would be to restore those people and to make it clear that what happened to them ought never to have happened. We cannot pardon those who have not been convicted. Although probably 2,500 of those convicted were executed, 4,000 people were accused. Those people would have gone through a great deal of trauma in being accused. They are likely to have suffered torture. We know, for example, that people died when they were remanded in custody accused of witchcraft. I would like an apology for all those people. I also thought that Scotland should have a national memorial that not only allows us a talking point about our own history but lets people who visit our country know our history and that we have acknowledged it and have vowed to do better.

The Witches of Scotland campaign was born at that point. Very shortly after, I got in contact with my co-campaigner Zoe Venditozzi, and the campaign started on international women's day 2020.

**The Deputy Convener:** Thank you for that comprehensive answer. I was going to speak about pardons, an apology and a national monument, all of which you have covered. Does Zoe Venditozzi have anything to say?

**Zoe Venditozzi:** It is important and it has become increasingly obvious to us during the campaign that, sadly, the issue is not relegated to the past. There are countries around the world in which the issue is relevant now. The vulnerable are accused of witchcraft and are often isolated. Sometimes they are killed as a result of mob justice. We know from campaigners whom we have worked with abroad that they would greatly value Scotland's support by saying that we know that there was something wrong in our past and signalling to other nations that we would support them in eradicating accusations of witchcraft.

**The Deputy Convener:** Thank you. My colleagues will now ask questions.

**Ruth Maguire (Cunninghame South) (SNP):** Good morning, Zoe and Claire. Thanks for being with us.

What would lead to a woman being accused of witchcraft? There are some misapprehensions about the type of women who were accused of it. Could you speak about that a little?

**Zoe Venditozzi:** Sadly, that could have been anything. The person might have fallen out with somebody about the price that they had paid for something, they might have been a difficult person in the community, or they might have been what we would now view as vulnerable. In those times, there would have been people who were seen as being unusual or strange in some way. Somebody might have wanted their land or they might have been secretly practising as a Catholic. There could have been many different reasons.

We have come back again and again to the point that anybody could have a finger pointed at them to say that they were a witch, and it would have been very difficult for them to get out of that situation. The reason could have been literally anything. There is a misapprehension that the people were healers and midwives. From recent research that has been done, we know that healers and midwives were just a small percentage of those who were accused. Literally anybody could have been accused.

**Claire Mitchell:** There are misconceptions that the people who were accused were healers or midwives—that is a common misconception—that they had red hair, or that there was something that marked them out. Sadly, as a beautiful local memorial in Orkney says, “They wur cheust folk”. They were just people who were going about their everyday lives.

The difficulty was that the state and the church fervently believed that the devil was working among the community, and that the ills that befell the community were the result of the devil working through witches. I will give an easy example. If a woman came to the door asking for alms or begging for any form of help, and she left without

any money, perhaps because the person who answered the door did not have any money to give, then an illness befell the family or something else went wrong, there would be a suspicion and accusation that that woman had used witchcraft to do that because she did not get alms. That is one of the saddest examples, where someone so vulnerable and who has no money asks for help and eventually ends up being accused.

When it came to trial, there were various tests to see whether someone was a witch. One of them was the “quarrelsome dame” test, which reminds me of a James Cagney movie. If a woman was a quarrelsome dame, she might be more likely to be accused, or she might fall out with her neighbours and, if something happened, the suspicion would be that the devil was among us. That was very much the belief at the time and people were, unfortunately, encouraged in the belief that that was what was happening by all sides. It is therefore unsurprising that people had that view.

Sadly, no one was immune from accusations. The majority of people who were involved were relatively poor, but the situation also cut across economic and social divides. Some rich people, including earls, were accused of witchcraft.

**The Deputy Convener:** Ruth, do you have any further questions?

**Ruth Maguire:** I do. Will I just keep coming back in, convener?

**The Deputy Convener:** Yes, please, and indicate when you are finished.

**Ruth Maguire:** Okay. I will not wait for an invite.

Who would normally conduct the trials, and what sort of evidence would be used to secure a conviction? Claire, you gave an example of someone falling ill or any sort of negative experience befalling a community. Are there any other specific examples that you could give about the evidence that the state would use and who would conduct the trial?

**Claire Mitchell:** Certainly. Another misconception is that the trials were religious trials, but they were conducted by the state, and that is why it is appropriate for the state to give an apology.

Allegations would be made in the local community. All sorts of allegations were made, but they usually related to an ill befalling someone and, in some way, a narrative being connected with that person, whether they had quarrelled in the market or they had had a fight. Sadly, examples were as simple as seeing someone out late at night, or seeing someone dancing beside a fire. People might have been doing very ordinary things, but they were attributed to being a witch and doing the work of the devil.

When an accusation was made, the accused was usually incarcerated in a local place such as the tollbooth. They were kept there for a period of time, remanded until



they were questioned. Questioning took the form of keeping the accused awake, watching and waiting, and asking them questions. In a sense, Scotland was in advance of other countries at the time because they did not physically torture people as much as other places.

Although there were instances of physical torture, in Scotland people used to keep the accused awake and ask them questions, not just for hours on end but for days on end. Of course, we know that that is one of the most insidious forms of torture, because people lose their minds when they are not allowed to sleep. We know about that because people have traced the records of people taking turns to sit and ask questions. We even have records of how many candles were burnt through the night, for example, because all those things had to be accounted for.

When a confession was obtained, it would be used as the basis for the evidence. However, it was not enough to confess alone to the crimes. As people understood it, witches worked in covens, so they would not be acting alone. They would be asked for further names. People in delirium would, of course, give the names of friends and family, which, sadly, led to those people being brought in and the same thing happening. We can see why the witchcraft accusations would grow exponentially.

Once a confession was obtained, the state would prosecute the matter and the women would be brought before court. They would not be able to give evidence in their own right because it was not competent for them to do so. In particular, it was not competent for women to be witnesses in a courtroom. At that time, I do not think that it was competent for most, or any, accused people to give evidence, but in any event women were not competent witnesses. However, witnesses would be brought to court, somewhat in the same way as is done now, to say what had happened to them—if there had been a fight, they would say what had been said or what they had seen the accused do—and then evidence of the confession would be led.

Then, as now, confession was a very powerful statement against self-interest. In the modern day, people confess to things that they have not done, even when they are not under torture. Other people may find that very strange, but we know psychologically that people confess to things that they have not done. In those sorts of cases, that would have been exactly what would have happened. Someone akin to a modern-day judge would then decide whether the person was guilty of witchcraft.

The sentence that was imposed on people who were found guilty was execution. We see one or two instances of people being banished as witches, but if the law was being applied properly—which we imagine that it was, in most cases—execution would happen. People would be strangled and then their body was burnt, so there was no ability for loved ones to bury them or anything like that.

**Ruth Maguire:** In your opening statement, you mentioned 2,500 people being executed and 4,000 being tortured. How confident are you that the figures set out in

the survey of Scottish witchcraft present an accurate picture of the number of women affected during the period that it covers?

**Claire Mitchell:** The experts have obviously done a great deal of research on the matter. In so far as they have been able to, they have gone through the records of what happened. Some citizen investigators are now looking at records and finding additional names. For example, we know that an academic called Judith Gorman or Langlands-Scott in Forfar has found additional names. Therefore, the number might be slightly underreported, if anything. The survey of Scottish witchcraft mentions in its introduction the limitations that the team faced in looking for the information, which, as with anything else, were time and money. The numbers in the survey are an approximation, but one given by academic experts who have researched the matter thoroughly.

I should also say that when we look at those numbers—the approximately 4,000 accused and approximately 2,500 who were executed—we should remember that are from a time when the population of Scotland was approximately 900,000 people. We are not looking at Scotland as it is in the modern day, but at a much smaller country. From that perspective, we can perhaps see from those numbers that the impact was even bigger.

**Ruth Maguire:** That does say something to the scale of it.

I want to ask about the change in law in 1735 after the so-called “glorious revolution”. Will you talk a bit more about the impact of that on witchcraft convictions and sentences and give your reflections on why it took more than 200 years for the Witchcraft Act 1735 to be repealed?

**Claire Mitchell:** I will answer that legal question and then perhaps Zoe Venditozzi can take over.

The state and the church vehemently believed that the devil was among us. It was not until societal views started to change that there was a change to the witchcraft legislation. That took so long because society was steeped in that belief at that time. In 1736, when the 1563 act was ended and the 1735 act came into force, it changed the crime of witchcraft to pretended witchcraft, so, automatically, we were already accepting that the crime of witchcraft did not exist. There was a change from it being a crime of witchcraft to one of pretended witchcraft—I cannot imagine a more striking acceptance of the fact that witchcraft did not exist, even at that time.

The sentence that was imposed could be non-custodial—I think that it went down to a fine—or custodial. Someone could be convicted of pretended witchcraft and receive a fine. To put that into perspective, the last person to be executed as a witch in Scotland is believed to be Janet Horne. That happened in either 1722 or 1727—there is a stone marking it, and people debate what date it was. A very short period later, there was public acceptance that the 1563 act was inappropriate, because the

crime of witchcraft did not exist, so the crime had to be changed to pretended witchcraft.

**Ruth Maguire:** Zoe, do you have anything to add on those questions?

**Zoe Venditozzi:** No. Claire has definitely covered everything from the legal perspective. I am not a lawyer; I have come into this like any normal person who does not know anything about it. The numbers that are involved are staggering. As Claire rightly pointed out, for such a small population, a lot of people were swept up in it.

**Alexander Stewart (Mid Scotland and Fife) (Con):** It has been fascinating to hear the history that you have given us and to gain an understanding of the culture in Scotland at the time and the power of the state and the church to make things happen. You have given us some examples of what is being done in other parts of the world and how people there have managed to do those things.

How are you able to support what you are trying to achieve, when it has been so long—centuries—since the events took place? It is very difficult for us because, in many respects, we live in a different world today. You have explained our culture, heritage and myths, as well as the knowledge and understanding that people in Scotland had in those days, which is not anywhere near what we have today. How do you square that circle? What have you considered and discounted, and why, in trying to secure pardons for things that were done so long ago?

**Claire Mitchell:** We of course acknowledge that these things happened a very long time ago. That is a relevant and necessary question for us to be able to answer. My first answer is that there is no time limit on justice. It was wrong when it happened; those people were not guilty of those offences and they paid a terrible price, in the most brutal way. That they were convicted and killed as witches was wrong then and it is wrong now.

Rather than, “Why would we do this now, hundreds of years later?”, we might ask, “Why didn’t we do this hundreds of years ago—why has it taken until now to address that point in Scottish history?” I very much believe that the answer is that history is written by the victors. It was not written by the people who could not write—the ordinary people who could not record their history in that way. As such, the history of witchcraft in Scotland has fallen to the side. It has been an academic exercise, but not one for the general public.

In respect of the question that you ask about changing times and how we can square what happened then with the modern day, one of the things that really encouraged me to lodge this petition was the recent parliamentary decision to pardon people who were convicted of homosexual offences many years ago. What the Parliament said when it granted the pardon to those people who were convicted of same-sex offences was that those people ought never to have been criminalised, as the thing

that they did is not a crime. That is true for those people—I heartily endorse that—and it is also true for the people who were killed as witches.

One other thing that I reflect on when we talk about these events being a long time ago is that, although 300 or 400 years seems like a long time, it is the blink of an eye in the grand scale of history. We still talk about things that affected Scotland 300 or 400 years ago—those things are important to us. Once again, I hesitate to say it, but the history that we know better is to do with, for example, battles that happened a considerably longer time ago than that, and we still reflect upon and learn from those things. I hope that, in the modern day, we can reflect upon what happened during the period that the petition is concerned with and bring those reflections to the 21st century in a way that is of use.

People say, “What’s the point? It was hundreds of years ago and you can’t help those people now.” To that, I say that we can do something to help them: we can try to restore those people properly to history as people who suffered a miscarriage of justice—that is the first thing—but we can also, as citizens, reflect upon what caused what happened to happen and why people who were in a vulnerable situation were subject to allegations and were used in a power structure that meant that they paid with their lives. We can reflect on that wrong and vow to do better. As Zoe Venditozzi has said, more broadly, it is a symbol for the world. She might want to say a bit more about that.

**Zoe Venditozzi:** I would just say that, although we have changed a lot over time and have, obviously, grown and now view ourselves as being more civilised, there is still an on-going issue with vulnerable communities. We are not at a stage where people are really wonderful to everybody else, and I think that it would give an important signal that we protect the vulnerable in our society, that everybody has a fair shake of the legal system and that we are thinking about—and are thoughtful about—who we are as a nation. If we want to be seen as a beacon of intelligence and sensitivity, this is a really good way of saying internationally that we are thoughtful and that we are looking at our past and are mindful of it. It is the same as the on-going moves to look at our past involvement, as a nation, with slavery. We need to examine the things that happened in the past that we are not necessarily proud of now and understand them so that they are not repeated again.

**Alexander Stewart:** You talk about the miscarriage of justice, and I think that many people would identify that as the core issue. However, many would also identify the fact that, in those days gone by, the state and the church were very male dominated and women were persecuted.

There is no question about that, and you have given evidence today about the torture and interrogation that those women went through. Whether or not it was an inquisition, that type of structure—which involved the persecution of women, primarily by men, in communities—was in place in those times gone by. It is

important that we identify that, because that seems to have been one of the main processes at work. Those women were disadvantaged and vulnerable, and the male-dominated state had control over their existence and whether they continued to have a life after they were put into that situation.

**Claire Mitchell:** Absolutely—I could not agree more. That is exactly how it was. What we want for Scotland in the 21st century and looking forward is a generation that comes after us that is equal. In the 19th and 20th centuries, we made great steps forward towards equality, but we are not there yet. It is still a vitally important part of what we do as a country that we reflect on where we have come from in order that we can go forward and achieve that equality, and I think that the point that you make is extremely valid and well made.

**The Deputy Convener:** I believe that Ruth Maguire has some more questions.

**Ruth Maguire:** I think that they have been covered. I wanted to explore a bit more the discriminatory nature of the issue, but the petitioners have told us in their evidence that it relates predominantly to women and people with other vulnerabilities, so we have covered that aspect. Are colleagues going to ask about Natalie Don's proposed bill?

**The Deputy Convener:** Yes, but if you want to do that, you can.

**Ruth Maguire:** I am flying blind here at home—I am sorry.

My colleague Natalie Don intends to introduce a member's bill on the issue. Are the petitioners able to give the committee an update on their knowledge of it, their views on its scope and whether it addresses what they want to do?

**Claire Mitchell:** Yes, we have spoken to Natalie Don. She approached us when she found out about the campaign and indicated that she was interested in introducing a member's bill on the subject. We were absolutely delighted about the prospect of that.

Natalie Don was invited to the meeting, but it coincided with the meeting of another committee that she had already said that she would attend, so she was unable to attend this meeting. However, she passed on to me the information that a draft consultation is ready for submission tomorrow so that it can be issued and the public can have an opportunity to be consulted on the proposal. I believe that that is the next step forward. She said that there had been a bit of to-ing and fro-ing about the draft consultation, but it appears to be ready. She also said that she hoped to pass a copy of it to us so that we could have an opportunity to read it before it was submitted. I think that that will happen later today or tomorrow.

**Paul Sweeney (Glasgow) (Lab):** It has been fascinating to listen to the evidence. It has been educational for me to recognise that the petition represents an assertion of the triumph of civilisation over barbarism. We are trying to come to an agreement

about how best to express that in our society. I increasingly realise the importance of what you seek to achieve and why it is being advocated for, so the evidence has been powerful.

Do you intend to encourage the member in charge of the proposed bill to cover all three elements of what you are trying to achieve? As I understand it, the proposed bill would legislate primarily for a pardon, but could it also stipulate terms for a national memorial? Could that be incorporated into such a bill?

**Claire Mitchell:** To be frank, I do not know, because I have not seen the draft. I think that it relates to legislation for a pardon alone. That is all that has been discussed. Therefore, I do not think that it contains anything about a national memorial.

I should indicate to the committee that Zoe Venditozzi and I have written directly to the Scottish Government and the First Minister requesting that the First Minister consider the Government giving the apology on international women's day this year. We have not yet heard back in that regard, so I do not know whether that will happen.

The apology is broader and would encapsulate all the people who were accused. Only people who were convicted can be pardoned and we want something for everyone. We have asked for a period of time to be set aside for the Government—the state—to reflect on what happened, to publicly state that what happened was wrong and to give an apology. Given the gendered nature of the way in which the witchcraft legislation was implemented, there is no better time to do so than international women's day, but we have yet to see whether there is any possibility that that will happen.

**Paul Sweeney:** That is helpful. What do you hope that the Government formally giving an apology would achieve?

**Claire Mitchell:** Zoe Venditozzi might want to answer that.

**Zoe Venditozzi:** I think that it would signify—[Inaudible.] It would go out on an important day and would symbolise Scotland's understanding that what happened in the past was a miscarriage of justice and would send a very important message that, as a nation, we are trying to look at what we did and to reach parity for women in modern society.

**Claire Mitchell:** I do not have it to hand, unfortunately, but the first page of the report of the First Minister's national advisory council on women and girls talks about history being recorded by only one side, why it is important for history—and the history of women—to be properly recorded and how we can do that so that we can move forward. Presenting an apology on such an important day as international women's day might be symbolic, but no less important for that, because it is important that we say in the 21st century that we accept that what happened was wrong.

We talked earlier about things happening 300 or 400 years ago. We are somebody's history; I hope that, in 2,000 or 3,000 years' time, children's history books will talk blithely about the period from the 15th to the 21st century as if it were the blink of an eye. I want the children of the future to be able to read in a book that, in the 21st century, the Scottish Parliament took the time to reflect on what happened to women and men during that terrible period of time and said to them publicly that it was wrong. By reflecting on that, we can try to make ourselves better.

**Paul Sweeney:** Would an apology highlight themes of victimisation, bullying and ostracism in our current society? Would it have a meaningful effect on any relevant live debates?

**Zoe Venditozzi:** There are echoes as well as parallel lines that can be drawn. I come back to the idea that we need to protect the vulnerable in society and be thoughtful and sensitive. As a teacher who works in additional support needs, I am very passionate about this subject, and I think that we need to be thoughtful and clever and say, "We need to protect the vulnerable." An apology would definitely provide a parallel that would allow us to say that this terrible thing happened because people who did not have sufficient power were picked on. I think that that could be used in a thoughtful way at this time in Scotland.

**Claire Mitchell:** Zoe, have we not been asked by a number of teachers for resources to encourage teaching of the subject?

**Zoe Venditozzi:** Yes, definitely. It is—[Inaudible.]—the idea of bullying and how the powerful can use that power for negative reasons and impact on people's lives. There is huge modern relevance.

**Paul Sweeney:** You have talked about the symbolism of international women's day. Is there a specific figure in the Government whom you would wish to issue the apology, or would it be satisfactory for the Government in general to do so?

**Claire Mitchell:** We have written to the First Minister, and it would be ideal if she, as a woman, issued the apology on international women's day. It is very important for women—young women, in particular—to see other women in positions of power. I am sad to say that, as yet, we are not generation equal. Although there are many women in positions of power, that is, in general, not the case across the board. It would be a great thing for Scotland if our First Minister gave the apology.

**Paul Sweeney:** Would you prefer a verbal apology in the parliamentary chamber rather than something written, or would you rather have both?

**Claire Mitchell:** Both, any or all, I would say. As someone who is involved in oral advocacy, I think that it is powerful to see someone speaking about these things, so that would be great. However, any kind of apology would be very welcome.

**Paul Sweeney:** With regard to the proposal for a national monument, which I find really interesting, are there any international examples that we can look at? You mentioned a community memorial in the north of Scotland, but are there any well-done international examples of national memorials to the victims of this superstitious practice?

**Claire Mitchell:** First of all, we should acknowledge that there are fantastic local memorials. People ask me whether I want local memorials. Yes, I do—I want those to be in addition to those that we already have. However, it would also be great to have a national memorial.

There are other examples of memorials, particularly in Finnmark in Norway. Perhaps Zoe could tell us about that.

**Zoe Venditozzi:** The memorial in Finnmark, which was designed by two internationally recognised artists, is striking and thought provoking. People go along to the site and see a moving monument. It is not just a static memorial, with names. However, even having that would be wonderful—having any national memorial would be great.

We have an incredible body of artists working in Scotland. We have an opportunity to make something that is really striking, which would signal to the rest of the world that Scotland is a forward-thinking nation. I would like to see something that is imaginative and very striking.

**Paul Sweeney:** What do you hope to achieve by having a national memorial? Where would that be sited? How might the works be commissioned? Would there be a competition, or are you planning to undertake some other sort of activity?

**Claire Mitchell:** Zoe and I have got the campaign to this stage. As lawyers say, we would like to have an agreement in principle for a national memorial. We are not equipped to carry out the task of identifying a specific national memorial.

As I say, we would like there to be an agreement in principle so that others whose job it is to do such things—to memorialise—are invited to make a bid or to participate, whatever the process might be.

We have a lot of people contacting us suggesting that a national memorial should be in their area, or suggesting who the artist should be. There is a real keenness and buzz around the idea. I am sure that, if such a memorial was agreed to, a lot of people would be interested in getting involved. We are just interested in having the idea agreed in principle.

Do you want to add anything, Zoe?

**Zoe Venditozzi:** I just do not want to have to build the monument myself—that is the main thing. We are very keen for there to be a memorial, and there are professionals



who would deal with that side of things. As Claire said, we would like the idea to be agreed and for someone who really knows what they are doing to make something wonderful and affecting.

**Claire Mitchell:** One of our tweets has received hundreds if not thousands of responses. We tweeted to ask whether it would be good to have a museum of witch hunts in Scotland. Although the beautiful memorial in Finnmark is incredibly striking, we would like there to be a place for people to go to learn.

Zoe and I started a podcast to get people interested in the issue. The level of interest has been utterly overwhelming. I should state clearly that it is not Zoe and me talking about the issues—we do not know about them. We have experts speak to us, whether they be academics, historians, lawyers, activists, authors—the list goes on. It is clear that there is a huge need for knowledge of the issue. I have spoken about people contacting us to ask whether we would consider doing child-friendly podcasts. Recently, someone who writes comics contacted us. They want to do something about the campaign, to tell people about such things. People have been trying to interact with the issue in lots of different ways.

However, the idea of having a place where people could go, be that a museum or a heritage centre, to find out about the true history of the women of Scotland would be an amazing thing.

I am not trying to push for a particular thing, but we have an opportunity to think outside the box. As Zoe mentioned, would a memorial need to be a static statue, or could it be something else? Could it be something that assists learning, such as having a physical place where people can learn?

**Paul Sweeney:** Thank you very much for that. The esplanade of Edinburgh castle has been mentioned. What are your reflections on that? That might be an obvious location, I suppose.

It might be worth considering engaging with Historic Environment Scotland, which manages a lot of historic properties across the country, many of which might, historically, have had some involvement in the practice of witch hunts, and it might be able to find an appropriate location. Therefore, it might be worth engaging in that discussion now to develop the idea.

I have been involved in a couple of memorial campaigns, including the Remember Mary Barbour campaign in Glasgow to raise a statue to Mary Barbour and the rent strikers in Govan. That was community led—there was a lot of persistent fundraising and a design competition, but they had to be very much driven by the campaign. Similarly, there is the recent an gorta mór memorial in the east end of Glasgow to the Irish famine victims. Again, that involved a persistent, community-led campaign. Often, such initiatives can help to drive projects, so it might be worth looking at those examples in order to help to drive things forward.

**Claire Mitchell:** Absolutely—thank you very much. Those are two excellent examples of how the community wants to have its history properly reflected. Those examples are absolutely inspirational community projects. However, it is important that we do not have to rely on individual funding. The community interest is already there, let me tell you—if only I could pass on all the witches of Scotland emails that I have to someone else. The community interest and support are there, but it is important that the funding is done centrally for Scotland as a whole. However, you are absolutely right that it is very important to engage the community.

The witches' well at the top of the esplanade still sits there. It is an historical artefact, and it says that 300 witches were burned there. It also says that some used their power for good, and some used it for evil. All day, people just walk past the well, but I am thinking, "Just take out the word 'witches' and put in the word 'women'". The well just sits there and we do not really reflect on it. That is because the idea of the word "witch" has permeated our society in such a way that when people say it, they mean a figure of fun, or a cartoon, or something that is in a book. We do not reflect properly on the history, which is why having the campaign with its aims—and having these discussions—is a really great opportunity for Scotland to do that.

**Paul Sweeney:** Thank you for your impressive testimonies.

**The Deputy Convener:** Thank you, Paul. To update the committee, Natalie Don's proposed member's bill is only about a pardon; it is not about a national memorial or an apology.

Claire and Zoe, is there anything that you have not been asked about, which you would like to say in evidence?

**Claire Mitchell:** I do not think so. The questions have been very thorough. Zoe, can you think of anything else?

**Zoe Venditozzi:** No, I cannot. I would like to say again that it is a really important issue. It is not something that belongs in the past; we need to address it now. It behoves an intelligent nation such as ours to do so.

**The Deputy Convener:** Thank you very much for the comprehensive evidence that you have provided today. It is good to see people back in the Parliament giving evidence at committee.

Do committee members agree to consider the evidence and any matters arising from it at a future meeting?

**Members** *indicated agreement.*

**The Deputy Convener**

Once again, I thank the witnesses. I suspend the meeting to allow them to leave.

## Annexe C

### Petitioner submission of 11 May 2022

#### PE1855/G Pardon and memorialise those convicted under the Witchcraft Act 1563

Since we gave evidence on the last occasion we write to update the Committee with the campaign.

We wrote to the First Minister earlier this year asking if she would consider making a formal apology to those convicted on International Women's Day 2022. We were delighted when, as part of a broader speech on the issue of misogyny past and present, the First Minister gave that apology.

In relation to the pardon, we understand that Natalie Don MSP was working to put out the consultation document in respect of her proposed private members bill. We have had sight of a proposed consultation document and we hope that it will be made available to the public soon. We have no timescales on this and it may be best to ask Natalie Don for any further information in this regard.

That leaves the issue of a national monument. We would ask that consideration be given to:

- 1) the Committee either voicing its support for it to Government; and
- 2) to consider sending the issue to the committee which deals with culture and tourism – Constitution, Europe, External Affairs and Culture Committee for it to give consideration to the idea of a National monument as an important cultural matter for Scotland.

Claire Mitchell QC

Zoe Venditozzi

WITCHES OF SCOTLAND

# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday 18  
May 2022

## PE1860: New Legislation for Prescription and Limitation Act

### Note by the Clerk

<b>Lodged on</b>	24 March 2021
<b>Petitioner</b>	Jennifer Morrison-Holdham
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to amend the Prescription and Limitation Act to allow retrospective claims to be made.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE1860">https://petitions.parliament.scot/petitions/PE1860</a>

### Introduction

1. The Committee last considered this petition at its meeting on [2 February 2022](#). At that meeting, the Committee agreed to write to the Minister for Community Safety.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from the Minister for Community Safety, and the Scottish Courts and Tribunal Service which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

## **Action**

The Committee is invited to consider what action it wishes to take.

**Clerk to the Committee**

## Annexe A

# PE1860: New legislation for Prescription and Limitation Act

## Petitioner

Jennifer Morrison-Holdham

## Date lodged

24 March 2021

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to amend the Prescription and Limitation Act to allow retrospective claims to be made.

## Previous action

I have raised this issue with Shirley-Anne Somerville MSP and the Law Society of Scotland.

## Background information

Prescription sets time limits after which legal obligations (and associated rights) will be extinguished. Prescription and limitation are very similar, both containing time limits which courts must consider.

Where rights are thwarted for no fault of any petitioner a safety net in terms of legislation would be humane and serve justice.

In my own experience, lawyers failed to serve a writ in time and such a delay stopped my rights. Many Scots may benefit from the action being proposed in my petition, as I hope to, if new law allows.

Others may also benefit by extension of rules, especially if circumstances out of their control unjustly thwarts their rights.

A good outcome for others in Scotland enduring similar deprivation to mine, is also my hope.

## Annexe B

### Extract from Official Report of last consideration of PE1860 on 2<sup>nd</sup> February 2022

**The Convener:** PE1860, which was lodged by Jennifer Morrison Holdham, calls on the Scottish Parliament to urge the Scottish Government to amend the Prescription and Limitation (Scotland) Act 1973 to allow retrospective claims to be made.

The petition was last considered on 17 November. Members will recall that, in her previous submission, the Minister for Community Safety advised the committee that the Scottish Government does not hold data relating to the exercise of section 19 of the Prescription and Limitation (Scotland) Act 1973 and that the Scottish Courts and Tribunals Service cannot interrogate the information that it holds, as it is held in a court interlocutor. The committee therefore agreed to write to the minister to ask how the Scottish Government intended to address the data gap identified by the petition. I think that we were all quite surprised by that. The minister promised to write once again to the Scottish Courts and Tribunals Service to raise the issue with it.

The minister also notes that section 19A empowers the court to disapply the time limit and that this discretion is unfettered, stating:

“what matters is the circumstances in which the courts have exercised the discretion, not necessarily the number of times it has been exercised.”

I thought that the response that we received from the minister was the one that we might have hoped to receive the first time round. Are there any comments?

**David Torrance:** Could we write to the Minister for Community Safety to ask for an update on how she got on with the Scottish Courts and Tribunals Service?

**The Convener:** Indeed. I do not know when we can expect the minister will have written, but we will chase that up until we get an understanding of what has progressed.

## Annexe C

### Minister for Community Safety submission of 11 March 2022

#### PE1860/E - New legislation for Prescription and Limitation Act

*Calling on the Scottish Parliament to urge the Scottish Government to amend the Prescription and Limitation Act to allow retrospective claims to be made.*

Thank you for your letter of 16 February 2022 requesting an update regarding the above petition. The Scottish Government recently wrote to the Scottish Courts and Tribunals Service and awaits a response. As the discussion progresses, I will provide the Committee with updated information.

### Scottish Government submission of 19 April 2022

#### PE1860/F– New legislation for Prescription and Limitation Act

*The following letter from Eric McQueen, Chief Executive of Scottish Courts and Tribunals Service, to the Minister for Community Safety has been shared with the Committee.*

Thank you for your letter of 25 February 2022 in relation to the provision of information on the use of judicial discretion under section 19A of the Prescription and Limitation (Scotland) Act 1973 (the Act) to dis-apply time limits for bringing legal proceedings in certain actions.

It may be of assistance to firstly expand on the previous indication that such information would only be able to be identified from the interlocutors relating to individual cases. The Scottish Courts and Tribunals Service civil case management system is structured for operational rather than statistical purposes. The registration of actions



on the system is not aligned with whether section 19A applies to that action. We are therefore unable to differentiate those cases electronically from other types of action.

As you are no doubt aware, Section 19A provides the power of the court to over-ride time limits “where a person would be entitled, but for any of the provisions of [section 17, 18, 18A or 18B] of this Act, to bring an action, the court may, if it seems to it equitable to do so, allow him to bring the action notwithstanding that provision”. In the context of overriding limitation periods of actions, the types of cases that are subject to section 19A are:

- s. 17 Actions in respect of personal injuries not resulting in death.
- s. 18 Actions where death has resulted from personal injuries.
- s. 18A Limitation of defamation and other actions.
- s. 18B Actions of harassment.

However the above must be read along with further sections which make separate provisions for limitation or otherwise, of specific types of action:

- s. 17A Actions in respect of personal injuries resulting from childhood abuse
- s. 17B Childhood abuse actions: previously accrued rights of action
- s. 17C Childhood abuse actions: previously litigated rights of action
- s. 17D Childhood abuse actions: circumstances in which an action may not proceed
- s. 18ZA Actions under section 2 of the Automated and Electric Vehicles Act 2018
- s. 18ZB Section 18ZA: extension of limitation periods
- s. 18ZC Actions under section 5 of the Automated and Electric Vehicles Act 2018

In relation to personal injury actions it would therefore mean that in order to determine whether the court had overridden the limitation period, each interlocutor in each registered personal injury action would need to be considered individually. Actions relating to defamation and harassment are not registered in such a way that the case management system can

be interrogated to identify that specific crave. As a result, in order to identify whether section 19A has been applied by the court to those types of actions, this would mean potentially looking at all actions in which such a crave could have been made.

We have also considered if there are alternative sources that might provide the information - such as any locally held statistics – however, this is not something on which we collect data. Accordingly, the only source of this information would be the case interlocutors themselves. Given the volume of cases proceeding through the courts per year - over 8,000 personal injury cases alone - it would be a very substantial undertaking to firstly identify which cases might fall within scope and to then read the interlocutors in each of those cases.

I hope this explanation is helpful and I am sorry that we cannot be of more assistance in this regard.

# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday  
18 May 2022

## PE1895: Mandatory accountability for NatureScot's decision making procedures

### Note by the Clerk

<b>Lodged on</b>	23 August 2021
<b>Petitioner</b>	Gary Wall
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to make it mandatory for NatureScot to explain its conservation objectives in decision making within the framework of the Scottish Regulators Strategic Code of Practice and Scottish Governments guidance, 'Right First Time'.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE1895">https://petitions.parliament.scot/petitions/PE1895</a>

### Introduction

1. The Committee last considered this petition at its meeting on [2 February 2022](#). At that meeting, the Committee agreed to write to NatureScot.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from NatureScot and the petitioner which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

## **Action**

The Committee is invited to consider what action it wishes to take.

**Clerk to the Committee**

## Annexe A

# PE1895: Mandatory accountability for NatureScot's decision making procedures

## Petitioner

Gary Wall

## Date lodged

23/08/2021

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to make it mandatory for NatureScot to explain its conservation objectives in decision making within the framework of the Scottish Regulators Strategic Code of Practice and Scottish Governments guidance, 'Right First Time'.

## Previous action

Persisted on holding NatureScot to account, this resulted in them cutting off communications. Contacted 3 MSPs and the Environment Minister and they have failed to get answers. Asked the Chairman and vice Chairwoman to assist in getting answers, and that failed. I went to the SPSO who rejected my complaint and then after appeal and complaint related to the Ombudsman's code of conduct they admitted they were wrong but were unable to change the decision, that would require judicial review.

## Background information

I've had several license applications refused but from this experience I've spent hundreds of hours researching case law, government policy and international conventions so I have a deep understanding of the legal aspect of licensing under Section 16 of the Wildlife & Countryside Act, which isn't black or white. The main influence being the principle of proportionality which originates from Article 5 of the EU Treaty, this states regulation should be the minimum required to achieve the

objective. It should be mandatory for NatureScot to explain its "conservation objective" when refusing license applications.

NatureScot are independent of government in decision making but I don't believe that should mean they are unaccountable to the people of Scotland, which is my experience. In challenging them I have felt as though my human rights of freedom of expression, right to a fair trial and freedom from discrimination have been removed. Accountability should be mandatory.

## Annexe B

### Extract from Official Report of last consideration of PE1895 on 2 February 2022

**The Convener:** PE1895, which was lodged by Gary Wall, calls on the Scottish Parliament to urge the Scottish Government to make it mandatory for NatureScot to explain its conservation objectives in decision-making within the framework of the Scottish regulators' strategic code of practice and Scottish Government's guidance, right first time.

The committee wrote to the Scottish Government seeking information on the application of test 2, including whether assessing licence applications on the basis of there being no satisfactory alternative, as opposed to no other satisfactory solution, is likely to lead to a different outcome.

The Scottish Government sought advice from NatureScot and responded to state that "The terms 'no satisfactory alternative' and 'no other satisfactory solution' are considered to be analogous. This view is supported by the European Commission's recently updated guidance on the strict protection of species, which refers to birds directive case law for the interpretation of test 2".

The petitioner highlights that although NatureScot references European Union Commission guidance, the rejections that he has received in relation to licence applications have been on the basis of actions that are not challenged by the EU Commission in other countries. He states that the "Scottish Government recognise that 'proportionality' is one of the foundations of regulation and yet in ten years of license refusals it has never been explained to me what factors have been considered in relation to 'proportionality'".

The petitioner concludes by stating that "at least a citizen should be able to expect clarity in what the conservation objective is in refusing a license."

Do any members wish to comment?

**David Torrance:** I suggest that we write to ask NatureScot whether it routinely provides information about the conservation objectives it is seeking to achieve when rejecting a licence application and whether it plans to do so in the future.

**The Convener:** Are we happy to write to NatureScot?

[Members indicated agreement.]

**The Convener:** As there are no other suggestions, I take it that the committee is content to hold the petition open and we will write to NatureScot.

## Annexe C

### NatureScot submission of 7 March 2022

#### PE1895/E - Mandatory accountability for NatureScot's decision making procedures

Our wildlife laws are a vital tool to protect our native wildlife. NatureScot, as the licensing authority in Scotland has the ability to grant licences in accordance within the provisions of a number of pieces of environmental legislation. These set out the circumstances under which licences can be granted, not all of which relate to conservation objectives. These licensing 'tests' vary according to the legislation in question but generally include an assessment of; whether the applicant's proposal is covered by the purposes for which a licence can be granted, that there is no satisfactory solution or alternative which doesn't require a licence, and what the impacts of the proposal will be on the conservation status of the species involved. NatureScot will only grant a licence if an application can meet the relevant statutory tests. NatureScot routinely issues licence refusals and our approach is to always explain to the applicants the reasons for the refusals against the relevant legal tests.

### Petitioner submission of 6 May 2022

#### PE1895/F: Mandatory accountability for NatureScot's decision making procedures

The Court judgement, para' 141, McMorn v Natural England states "The (Birds) Directive provides a broad and general protection, sufficiently broad to require derogations in a wide variety of interests so as to create the desired balance between wildlife and human interests. There is no warrant for requiring the principal derogations to be construed narrowly; they should be construed with proportionality and the balance of the objectives in the Directive in mind.". This means that the Directive is broad in order to allow exemptions in a number of circumstances in order to create balance between the interests of wildlife and humans.



Also of note is para' 140 "The phrase "no satisfactory alternative solution" must not be construed so as to make the derogation nugatory in operation."

NatureScot have told the Committee that the circumstances set out in legislation determines whether or not a conservation objective is required but this statement ignores case law. The above court judgement shows the balance of the objectives should be the focus when deciding whether to grant exemptions. This influences the way our national law should be implemented. NatureScot's license refusals appear to ignore this balance and their own recent policy statement "What We Do" - "Our purpose is to - PROMOTE the sustainable use of Scotland's natural resources."

The Regulatory Reform (Scotland) Act 2014 creates the Scottish Regulators Strategic Code of Practice, Section 6 of the Act requires the code to include the following principles, which are implemented within Section 2 of the Code –

"Recognise, in their policies and practice, a commitment to the five principles of better regulation: regulation should be transparent, accountable, consistent, proportionate and targeted only where needed."

I don't feel the treatment I've experienced from NatureScot has been either transparent, accountable, consistent or proportionate. For them to have no conservation objective means their target is unclear, so it is impossible to determine if one is needed, as such I feel they're in breach of their statutory code of practice by having no conservation objective.

NatureScot also have a statutory obligation under the Nature Conservation (Scotland) Act 2004 to have regard to the UN's Convention of Biodiversity, Article 10(c) states "Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements". I feel this is ignored and not addressed.

Article 5 of the EU Treaty states that regulation should be the minimum required to achieve the objective. NatureScot appear to imply they don't need an objective to refuse a license application but Natural Heritage (Scotland) Act 1991 provides them with general aims –

"Section 1.(1A) SNH 's general aims and purposes in relation to natural heritage are –

(a)to secure the conservation and enhancement of; and

(b)to foster understanding and facilitate the enjoyment of, the natural heritage of Scotland; and SNH shall have regard to the desirability of securing that anything done, whether by SNH or any other person, in relation to the natural heritage of Scotland is undertaken in a manner which is sustainable."

My license application provides an opportunity for a better understanding of our natural heritage and facilitates its enjoyment through a connection with my cultural heritage. It's possible to do this in a sustainable way that provides conservation benefit by reducing the threat of genetic pollution and addressing degradation of natural instinct in captive populations.

I believe NatureScot ignore their statutory duty under Section 1 of the Natural Heritage Scotland Act. I don't understand their actions and if I had the opportunity to tell the full story I don't think any reasonable person would understand it either.

I've recently received another refusal from NatureScot in which they've decided the purpose I require the license for isn't what I say it is, it's something else, which fits their perception of addressing it with their concept of an alternative. This is what I'm being subjected to when there is no clear conservation objective. As the Scottish Government hasn't fully implemented the Aarhus Convention and citizens have no way of addressing environmental issues at reasonable cost, I don't believe the present situation is compliant with case law in the form of the Wednesbury principle, which is covered in Scottish Governments decision making guidance "Right First Time". This addresses the test of unreasonableness, so surely Scottish Government should implement conditions that clarify whether a "target" is required by highlighting a conservation objective, which facilitates understanding of licensing decisions? Is it not reasonable to expect a defined conservation objective when being refused a license given what I outline here and previously?

In my experience NatureScot don't explain refusals in the context of proportionality but then that would be impossible if they have no objective. When I've contacted Scottish Government about conflicts with their own policies all they do is seek advice from NatureScot on a response, leaving NatureScot as judge, jury and executioner. My feeling is there's no oversight and no accountability, and our natural and cultural heritage is paying the price.

# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday  
18 May 2022

PE1905: Public Inquiry into the response of  
religious organisations to allegations of child  
sexual abuse since 1950

## Note by the Clerk

<b>Lodged on</b>	25 October 2021
<b>Petitioner</b>	Angela Rosina Cousins on behalf of the UK XJW's Support
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to order a public inquiry into the actions taken by religious organisations in response to child sexual abuse allegations since 1950.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE1905">https://petitions.parliament.scot/petitions/PE1905</a>

## Introduction

1. The Committee last considered this petition at its meeting on [23 March 2022](#). At that meeting, the Committee took evidence from petitioner, Angela Cousins and agreed to consider the evidence heard at a future meeting.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
4. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

5. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).
6. Members may wish to note that the Independent Inquiry into Child Sexual Abuse in England and Wales issued its [report on Child Protection in Religious Organisations and Settings](#). Many of the issues identified in its report are similar in nature to concerns raised by the petitioner. The report stated that the Inquiry will return to a number of issues, including:
  - mandatory reporting;
  - vetting and barring;
  - regulation of the voluntary sector in respect of religious organisations and settings; and
  - introducing primary legislation to provide that voluntary settings adhere to basic child protection standards. We anticipate these issues will be addressed in our final report.

## **Action**

The Committee is invited to consider what action it wishes to take.

### **Clerk to the Committee**

## Annexe A

# PE1905: Public Inquiry into the response of religious organisations to allegations of child sexual abuse since 1950

## Petitioner

Angela Rosina Cousins on behalf of the UK XJW's Support

## Date lodged

25/10/2021

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to order a public inquiry into the actions taken by religious organisations in response to child sexual abuse allegations since 1950.

## Previous action

I contacted my MSP about this matter who I believe also spoke to the relevant Government Minister.

## Background information

I am a survivor of child sexual abuse. Like many others, when I reported that I was abused, I was failed by people within my church.

I supplied my evidence to the inquiry for England and Wales however, they could not use it as that inquiry didn't pertain to Scotland. Although there is a Scottish Child Abuse Inquiry, it is focussed on investigating the abuse of children in care.

There needs to be an investigation into the response of religious organisations, who were informed about allegations of abuse against children who were not in care. I would like the inquiry to investigate how many victims and how many alleged abusers there were, and what these organisations did to protect the victims.

The Independent Inquiry into Child Sexual Abuse in England and Wales has just released its report. Scotland now needs its own inquiry.

## Annexe B

### Extract from Official Report of last consideration of PE1905 on 23 March 2022

**The Convener:** Welcome back. Our next continued petition is PE1905, which is on the response of religious organisations to allegations of child sexual abuse since 1950. The petition was lodged by Angela Rosina Cousins on behalf of UK XJWs Support and it calls on the Scottish Parliament to urge the Scottish Government to order a public inquiry into the actions taken by religious organisations in response to child sexual abuse allegations since 1950.

Today, we will take evidence from our petitioner, Angela Rosina Cousins. On behalf of the committee, I extend a very warm welcome to Angela and thank her for coming to speak to us about something that is obviously very personal to her and, I imagine, difficult to talk about. We very much appreciate that she has taken the time to come and speak to us this morning.

We know, from our previous consideration of the petition, that the Scottish Government's view is that to extend the public inquiry would in some way undermine its ability to make progress in the short term, whereas other parts of the country are perhaps taking a different view.

We will move straight to questions. Angela, by way of helping with our understanding for our discussion, will you explain a bit about your background, what led to the petition, and the issues that you have raised in relation to child abuse in religious organisations?

**Angela Rosina Cousins:** Yes. I was raised as a Jehovah's Witness from a very early age. I was a baby when my parents were recruited on the doorstep by a couple of doorstep callers. That went on for 19 years. I suffered abuse from my father and one of the elders in our congregation, and nothing was done about it. It is my firm belief that this organisation is a paedophile's paradise, because they do not do anything about allegations of child abuse. They do not phone the police. That is why I am bringing my petition here today.

**The Convener:** What benefits do you think a public inquiry, the scope of which extended to those who have suffered abuse by religious organisations in Scotland, would have for the pursuit of the injustice that you feel you have suffered?

**Angela Rosina Cousins:** The main benefit would be for the children, because they are silenced, particularly in the Jehovah's Witness community. They are not allowed to speak up. The little lamb that I have with me represents the little lambs of the community. They do not have a voice. They are silent, but that should not be the case. Someone should speak up for them, and that is what I am here to do today.

**The Convener:** What response did you receive to your endeavours to have the situation that you were facing addressed?



**Angela Rosina Cousins:** The response that I received was from a judicial committee in the Jehovah's Witness organisation. Three elders had my father and me in a room with them. They asked me very provocative questions about what had happened, and then they sent me and my younger sister home with my parents.

**The Convener:** Was that, as far as they were concerned, as much as they were prepared to consider or pursue in relation to the matter?

**Angela Rosina Cousins:** That was pretty much all that they did. They did not do anything else apart from giving my father a mild reproof. He was allowed to continue coming to the congregation and mixing with youngsters and other people. He was not allowed to hold the microphone. That was one thing that he was not allowed to do.

**The Convener:** What age were you when you sought to pursue these matters through the congregational process?

**Angela Rosina Cousins:** I was 16 years old.

**The Convener:** Okay—thank you.

**David Torrance:** Thank you for attending the committee meeting today, Angela. It must be extremely difficult for you. What is your opinion on the Scottish Government's view and its argument that expanding the remit of the inquiry would only delay it and extend the time that it will take to fulfil its commitments to other sexual abuse survivors?

**Angela Rosina Cousins:** I empathise with other abuse survivors who have been in care. My view is that there are children out there who are hidden in plain sight, and they need to be heard as well. Whether that extends the inquiry or whether a separate inquiry is brought forward for this, something needs to be done.

**David Torrance:** On that point, you have lodged a petition for a public inquiry but would it be acceptable to you if a separate inquiry was launched?

**Angela Rosina Cousins:** I think so. There is a difference between being in care and being out in the world with everybody else watching us but still being hidden.

**Ruth Maguire:** Convener, I note for the record that Angela Cousins is my constituent and that we met in 2018 to discuss the matter.

Angela, thank you for being with us this morning. I am sorry for what happened to you. Thank you for being so brave in speaking up for other people.

I will ask you about the suggestion that the Scottish Government has made that it will consider and address any future recommendations made by the current inquiry to improve legislation, policy and practice. Will recommendations from the current inquiry be able to address the concerns that you have about what happened to you in the religious organisation of which you were part?

**Angela Rosina Cousins:** Unless the recommendations involve mandatory reporting for religious leaders, I do not think that that will be the case.

The Scottish Government has introduced the named person scheme, which is fantastic. However, a Jehovah's Witness child will not speak to a named person. They are required to remain silent. Unless it is made mandatory for a religious leader to speak to the police and child protection services in instances where such allegations are made, those children will forever remain silent.

**Ruth Maguire:** I will ask you a little bit more about mandatory reporting. We explored it before. The Scottish Government—these are its words, not mine—says: “there is not a compelling case for the introduction of mandatory reporting in Scotland and previous evidence has suggested that there could be some significant unintended consequences for wider child protection issues.” You gave the example of why the position for a child within your previous religious organisation would be different. Will you expand a little bit more on that and on why mandatory reporting would be helpful for a child in that situation?

**Angela Rosina Cousins:** The state of Illinois in America has mandatory reporting and, just yesterday, the elders who did not report the abuse of a child from six years old right up until the age of 18 were sentenced for a year each.

**Ruth Maguire:** You say that children within the organisation would not talk to anyone outside it. Is that why you feel that mandatory reporting should be introduced?

**Angela Rosina Cousins:** Yes, that is exactly why mandatory reporting should be put in place. Children in the organisation are taught that everybody outside it is part of the devil's world. They are taught that they are all controlled by the devil—the Government and the police are controlled by the devil—so it is nerve wracking for a child to say anything to anybody outwith the organisation. They are isolated from normal, everyday life.

**Alexander Stewart:** Thank you for your testimony in response to questions so far. How disappointed are you that the Scottish Government is not prepared to extend the inquiry? The First Minister and Deputy First Minister made comments about that in the chamber. How do you feel about the fact that they do not see the need to progress it any further?

**Angela Rosina Cousins:** I think that the First Minister is unaware of what has been going on under her and everybody else's nose. Of course I am disappointed, but, at the same time, I think that education for the First Minister and other governmental officials is key, so that they are aware of not just my story, but the stories of a number of children who are now adults across the world. There have been 30 documentaries in 15 different countries on this issue over the past 20 years. I think that it is time that the First Minister and other governmental officials were educated on this.

**Alexander Stewart:** You touched on the idea that other authorities are perceived as not being supportive, or that people are brought up in that regime to believe that they

are “the devil”. Do you feel that you have been listened to by other authorities and other organisations and individuals?

**Angela Rosina Cousins:** After I came out and met my partner, he told me that this is what I should do—speak to the police about what had happened to me. Therefore, I have been supported by authorities. I have been supported by social workers in our area, by health therapists, and by education—I am an art student in college at the moment.

**The Convener:** As we know, the child sex abuse inquiry in England and Wales is going to look at the issue more broadly than the one in Scotland did, which focused just on care homes; they are going to look at religious organisations as well. You made reference to there being 30 documentaries in 15 countries. Have you been able to meet or speak with others who might potentially find that their own circumstances are going to be addressed in the public inquiry in England and Wales, or is that a difficult kind of exchange to have?

**Angela Rosina Cousins:** I have, because our group is mainly online to help survivors of abuse who come out of the organisation and feel very fragile. We have over 1,000 UK members in our Facebook group. There is lots of support being given, every day.

**The Convener:** That is interesting. If the Scottish Government will not expand the remit of its inquiry or, as has been suggested, if a separate inquiry were not to take place, is it possible that some of the themes, lessons and recommendations that emerge through that inquiry in England and Wales could crystallise into actions that campaigners could pursue more directly with the Scottish Government here? In other words, is it possible that that inquiry will lead to recommendations of which Scotland should be taking note, too?

**Angela Rosina Cousins:** The inquiry has concluded and it put forward its report. I could bring that information to the committee, if you do not already have it.

**The Convener:** Okay. Paul Sweeney, you have been listening quietly. Are there any questions that you would like to put?

**Paul Sweeney:** I have been quite taken aback by the testimony today, as I think that we all have. It is obviously disappointing to hear the Government’s position on this. On the suggestion that the Scottish Government might consider addressing future recommendations made by the inquiry to improve legislation, policy and practice, do you think that will be sufficient to address any of the concerns that have been raised in your petition, or do you feel that that would not come close to dealing with the issue? Is there at least some element of what the Government is saying that might be helpful, or do you think that it is not adequate at all?

**Angela Rosina Cousins:** I do not think that it is adequate. If there is not mandatory reporting for religious leaders, there is no way forward.

There have been cases, such as the one in America that we heard about just yesterday, where they have not reported. It is about bringing accountability for people to report abuse to the authorities, because they are the people who know

how to deal with this in a kind and empathic manner without asking children provocative questions.

**Paul Sweeney:** That is very helpful. You are calling for mandatory reporting. You described the way that you were treated, which was appalling. It was almost gaslighting. Will you describe what you think mandatory reporting should look like? How would it play out? What would it be like in your ideal scenario?

**Angela Rosina Cousins:** In my ideal scenario, it would be just like what teachers have to do. Teachers have to report any allegation of child abuse to the police and the social work department. If religious leaders are mandated to report as well, that will go a long way towards bringing out the voices of the little lambs.

**Paul Sweeney:** Thank you very much.

**The Convener:** You met Ruth Maguire a few years ago. I know that you have met many politicians in the period since then, and you will have raised your concerns directly with Scottish Government ministers. Everybody will have been very sympathetic but, of course, you are looking for outcomes as much as anything else. Am I right to say that the key outcome that we can take from our discussion this morning is on the issue of mandatory reporting? Does that sit above or on the same level as your desire for the scope of the current Scottish Government inquiry to be expanded, or are the two things parallel and equally important to you?

**Angela Rosina Cousins:** They are parallel and equally important, because they will both help the Scottish Government to understand not just my former religious organisation, but others. My former religious organisation is a group with a very high degree of control, but I suppose that there will be others that are hidden in plain sight.

**The Convener:** Your life is being rebuilt with the support of your partner, Ian, who we are very grateful to have with us this morning as well. His support has obviously been hugely important to you.

In concluding, I would like to give you an opportunity to make any additional remarks to us as a committee that will help us going forward. If you have anything that you would like to read to us by way of a statement, that will be equally valuable.

**Angela Rosina Cousins:** I will quote something that I heard while learning at college: "Experience is, for me, the highest authority. The touchstone of validity is my own experience. No other person's ideas, and none of my own ideas, are as authoritative as my experience. It is to experience that I must return again and again, to discover a closer approximation to truth as it is in the process of becoming in me." That is by Carl Rogers, the psychologist.

**The Convener:** Obviously, personal experience has been the basis of your understanding of these issues and the way in which you have sought to pursue public redress and public action to try to help others, potentially, and to have the issue tackled directly at source.

It has been very brave of you to join us this morning. I am very grateful to you both. I know that it was a long journey to get here and it will probably be a long journey back.

We take the petition seriously and I know that members will want to consider in further detail the evidence that we have heard. As you will be aware, we have gone back to the Scottish Government on the inquiry and, having heard your evidence this morning, we will consider the points afresh.

I thank you very much for the time that you have taken and for your courage in speaking with us today.

I suspend the meeting.

# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday  
18 May 2022

## PE1912: Funding for council venues

### Note by the Clerk

<b>Lodged on</b>	14 October 2021
<b>Petitioner</b>	Wendy Dunsmore
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to provide the necessary additional revenue to local councils to run essential services and venues.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE1912">https://petitions.parliament.scot/petitions/PE1912</a>

### Introduction

1. The Committee last considered this petition at its meeting on [19 January 2022](#). At that meeting, the Committee agreed to write to Local Authority Chief Executives.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from Angus Council, North Ayrshire Council, Argyll and Bute Council, COSLA, North Lanarkshire Council and Fife Council which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

## **Action**

The Committee is invited to consider what action it wishes to take.

**Clerk to the Committee**

# Annexe A

## PE1912: Funding for council venues

### Petitioner

Wendy Dunsmore

### Date lodged

14/10/2021

### Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to provide the necessary additional revenue to local councils to run essential services and venues.

### Previous action

Our efforts have been focussed on Glasgow so far. We have set up meetings with Glasgow MSPs and MPs. Several attended to understand the threat to services and jobs.

The unions have also written to the Cabinet Secretary for Finance and the Cabinet Secretary for Social Justice, Housing and Local Government on 26 July 2021 and received a response on 5 October 2021.

Meetings have also taken place with a number of Glasgow City Council councillors. In addition, a number of meetings have also been set up with Glasgow City Council and Glasgow Life (the organisation established by the council to run its venues and provide some of its essential services). Further meetings are taking place throughout Scottish Local Authorities to adequate fund local government to meet their duty of care to the citizens of Scotland.

### Background information

The joint trades unions Unite, GMB and Unison believe that the closure of sports and cultural venues by local authorities will negatively impact on the physical and mental health of their citizens.



We recognise this as a further demonstration and direct consequence of the inadequate funding which is being allocated to local government and see this decision as a retrograde step in the drive to improve the healthy life expectancy of the citizens.

We therefore demand, as a matter of urgency, that the Scottish Government provide the necessary additional revenue to local councils to run these essential services, otherwise local people will be deprived of important venues which contribute to improved healthy life expectancy as well as social cohesion and inclusion.

## Annexe B

### Extract from Official Report of last consideration of PE1912 on 19 January 2021

**The Convener:** PE1912, on funding for council venues, has been lodged by Wendy Dunsmore. It calls on the Scottish Parliament to urge the Scottish Government to provide councils with the necessary additional revenue to run essential services and venues.

It is worth noting that the SPICe briefing on the petition, the Scottish Government's submission and the petitioner's submission were all written before the Scottish Government budget 2022-23 was published, which happened on 9 December 2021. Key points from a separate SPICe briefing on local government finance that was produced following the budget's publication include the facts that, once additional revenue and capital grants are factored in, the total local government settlement increased by £603 million, or 5.1 per cent, between 2021-22 and 2022-23; and that there will be a real-terms increase in provisional revenue allocations for all local authorities, except Western Isles Council, Shetland Islands Council and Orkney Islands Council, which all experience small real-terms reductions.

In his submission, the Minister for Public Finance, Planning and Community Wealth highlights the 2021-22 settlement of £11.7 billion, stating that it provided "a cash increase" in local government spending. The petitioner's submission is a collective response to the minister from Unite, Unison and the GMB. Although they recognise that local authorities make decisions about service provision and delivery, they note that those decisions are not without "unfair challenges caused by a real terms reduction of funding".

The petitioner's submission also points out that, as much of the £11.7 billion settlement figure is ring fenced for Scottish Government commitments, it is therefore "not technically available" for local authority spending decisions.

I invite comments from colleagues

**Paul Sweeney:** The issue of council finances is a long-running one. It has been a picture of long-term decline, certainly over the past decade—I think that the overall figure is that, on average, 10p in every £1 that a council in Scotland has to spend has been cut over that period. Bearing in mind that 80 per cent of a council's budget is set by the Scottish Government, the power in relation to council budget decisions lies largely with central Government. Only 20 per cent of a council's finances can be raised through local charges and the council tax. Therefore, local government's capacity to generate its own income is constrained.

Furthermore, as the SPICe report points out, there has been an increase in the level of ring fencing—that is, in the slice of a council's budget that has strings attached, which means that it cannot be used on a discretionary basis or has to be displaced

from existing budget lines and used to deliver Scottish Government-mandated projects. In effect, that is a way of funding central Government priorities indirectly through stealth, by displacing existing budget demands on local government.

That compounds the financial pressure that councils face. I accept that the latest figures from SPICe require updating but, from what I can discern, the pressure on local government has not relented. That is indicated by the recent reports that every council leader in Scotland from across the parties has written to the First Minister to request an emergency meeting to discuss council financing. That indicates that, regardless of party affiliation, this is a major issue confronting local government. Through COSLA, the leaders of all 32 councils have sought an emergency meeting with the First Minister to discuss the issue.

The acuteness of the matter has not abated, so the concerns that have been raised are valid. It would be worth while seeking information on the latest figures and impacts. We should also take a longer-term view of local government finance.

What I find problematic in the minister's response to the committee is the fact that absolute figures in isolation do not illustrate the problem. We have to consider the percentage position relative to previous years. Also, looking at the issue in cash terms in isolation is not necessarily helpful, when we have seen an inflationary spiral in the past year and significant pressures on wages are likely in the next financial year. All those things need to be properly unpacked and considered, rather than just throwing figures at us that sound impressive on the face of it but do not give the full context.

I am not entirely convinced by the response. On that basis, I think that there is merit in continuing the petition to gather further evidence.

**The Convener:** Thank you for that comprehensive contribution. As no other member wishes to come in, I think that we want to thank Wendy Dunsmore for her petition, which we are going to keep open. Mr Sweeney identified a series of stakeholders from whom we will seek views on the issues that are raised in the petition. Do members agree to proceed on that basis?

[Members indicated agreement.]

## Annexe C

### Angus Council submission of 11 February 2022

#### PE1912/C: Funding for Council Venues

I refer to your request for a response from Angus Council in relation to the above petition.

Sports and cultural venues in Angus are operated by the ANGUSalive which is an arms-length organisation owned by the Council. The legal ownership of the facilities is retained by the Council and a license to occupy has been agreed with ANGUSalive. The portfolio of venues covers Libraries, Museums, Town Halls, Sports Centres and Country Parks, delivering a range of related services for our citizens and visitors to Angus.

Funding arrangements to local government have required substantial changes to ANGUSalive organisationally over recent years and the impact of the pandemic on income generation, along with projected future savings required in line with Council budgetary constraints, has led to a transformational change programme being initiated to address the medium to longer term sustainability of the organisation as a going concern.

The period of recovery since the initial lockdown has seen the return of most venues into operation, albeit this has been based on reduced opening hours on a temporary basis. This has been considered and agreed by the Council's elected members, taking cognisance of the exceptional circumstances and impact on the ANGUSalive business model. Two museum venues have not re-opened but are now planned to re-open in spring this year on a seasonal basis. Three other venues are currently being used as vaccination centres to support the national health service roll out of the vaccination programme across Angus, and alternative solutions are currently being investigated to return these to ANGUSalive operation when this is possible.

The funding situation for the Council generally is extremely challenging. This factor, compounded with the impact of the pandemic on citizens, has inevitably resulted in previous approaches to service delivery

requiring transformation with new ways of working needed to meet changing societal demands, while being sustainable into the future. In Angus, that transformation is therefore looking at improved partnership arrangements with healthcare services and sports/ outdoor adventure activities, promoting a shift towards a preventative culture focussed on improving health and wellbeing, while creating new opportunities for income growth.

The Council and ANGUSalve are working closely together to manage the situation which has been essential in the circumstances. I hope this provides a helpful overview regarding the position in Angus which will assist with your deliberations on this matter.

## North Ayrshire Council submission of 11 February 2022 PE1912/D - Funding for Council Venue

I am writing in support of Petition 1912- Funding for council venues. North Ayrshire Council has repeatedly called for fair funding for local authorities in partnership with other councils and COSLA.

North Ayrshire Council is faced with financial challenges in setting the Budget, having made approximately £118million of cuts over the 12 years and pressures of rising demand and cost of services. Council budgets contain difficult choices.

Cultural, community and leisure services are highly valued by communities and demonstrably contribute to mental health, physical fitness and community wellbeing. These Council venues provide local access to spaces and support for community cohesion; vital meeting space for those addressing addictions, fitness and health; and access to learning, reading and digital services.

North Ayrshire Council has recognised the need to change and modernise services with the partnership and consent of communities. The Community Empowerment (Scotland) Act 2015 has seen the successful community asset transfer of centres and library services have been refreshed to adjust to changing needs and habits, with the introduction of multi-service, community hubs and improved digital library services. Community facilities work in partnership with Community

Associations through a Community Contract to increase their ability to operate buildings independently.

In conclusion, North Ayrshire Council calls for additional funding to support the continued operation of these facilities whilst recognising the opportunities through the community empowerment act and changes in societal behaviours to evolve provision that meets the needs of our communities and residents.

## Argyll and Bute Council submission of 18 February 2022

### PE1912/E - Funding for Council Venues Submission by Argyll and Bute Council

Like many other Scottish Councils, Argyll and Bute has established an organisation to run venues and provide some of its essential services – Live Argyll.

Community Leisure UK (Scotland) is the representative body of Scotland's public leisure and culture charities have stated -

*'Scotland's public leisure and culture charities have weathered the storm of the last 21 months of the pandemic due to support through the Coronavirus Job Retention Scheme and from local authority partners. Prior to the discovery of the Omicron variant, recovery after reopening has been slow and community return to public leisure and culture facilities had plateaued, both sectors reporting a 60-80% return rate.'*

*We fully support the Scottish Government's focus on public health and safety, and have seen our members across the country support vaccination centres, testing sites and ensuring they go above and beyond the requirements to ensure safe and welcoming environments for their customers. However, the lack of clarity from the Scottish Government in terms of messaging, particularly around reducing social contact while venues remain open is creating confusion and anxiety, both for the public and for operators.'*

Argyll and Bute Council would generally agree with these sentiments.

As an operator of facilities reliant on public subsidy Argyll and Bute Council and Live Argyll would support any request for additional resources which are targeted at ensuring the longer term sustainability of our facilities and venues.

Throughout the pandemic Live Argyll have been able to access support via the UK Government furlough scheme as well as successfully accessing support funds via Creative Scotland's performing arts venue relief fund. Whilst this support is very much welcomed it should be noted that the financial outlook remains uncertain with consumer confidence adversely impacted and changing user behaviour thus directly impacting income generation levels.

Like many businesses and organisations Argyll and Bute Council and Live Argyll are exposed to significant cost pressures and income risks. Local Authority resources are under extreme pressure and there are many competing priorities. Public leisure and cultural services will play a crucial role in post pandemic physical and mental health well-being recovery therefore it is essential that Councils are adequately resourced to be able to deliver and meet public expectations.

In conclusion, Argyll and Bute Council supports the principle that adequate revenue funding is provided to Councils to permit the ongoing delivery of these important services, which contribute in many different ways to the wellbeing of individuals and communities.

## COSLA submission of 18 February 2022

### PE1912/F - Funding for Council Venues

The Convention of Scottish Local Authorities (COSLA) is the voice of Local Government in Scotland. We are a Councillor-led, cross-party organisation which champions Councils' vital work to secure the resources and powers they need to deliver effectively. COSLA works on Councils' behalf to focus on the challenges and opportunities they face, and to engage positively with Governments and others on policy, funding and legislation.

Cultural and leisure services are critical to the wellbeing of individuals and communities and have huge physical and mental health benefits. These services play a significant role in preventing poor health outcomes and as such, their closure will have wider negative impacts on

physical and mental health. These services are critical to addressing the social determinants of health, along with other core Local Government services such as roads, transport, housing, parks and youth work. Cultural and leisure services are also significant contributors to local and national economies and the maintenance of, and access to, these services and venues is also critical to address inequality, poverty and improved educational attainment.

Local Government has been under significant and sustained financial challenge over the past decade. Councils have seen a real terms reduction in core funding. Ring-fencing, national policy initiatives and protections in education and health and social care continue to mean that Councils have limited flexibility over local spend and unprotected areas, including cultural and leisure services and venues, are subject to a higher proportion of cuts. Evidence from the Local Government Benchmark Framework shows that over a period of 8 years before the pandemic the investment in the collective cultural area decreased by nearly a quarter. Councils and the Arms Length External Organisations (ALEOs) that deliver cultural services have sought to manage these budget reductions in ways that minimise the impacts on services but the cracks are starting to show.

Additional funding of £120m for Local Government has been announced for 2022/23; however, the 2022/23 Scottish Budget still demonstrates a £251m real terms cut in core funding. It should also be noted that this additional £120m funding is not recurring. The Budget also does not take into account inflation, pay, increased demand and significantly this year rising costs such as energy. Sustainability of these services therefore remains challenging for both Councils and the ALEOs.

Cultural and leisure services across all Council areas have also been badly affected by the COVID-19 pandemic, with most culture and leisure services unable to operate either at all or at usual capacity for the last 22 months. COSLA has worked to identify the level of income lost across services in Local Government including ALEOs. This was estimated to be around £200m for all ALEOs and direct cultural and leisure services in 2020/21, increased from earlier estimates due to restrictions needing to be strengthened and in place for longer. This represents 30-90% of budget for some organisations and services depending on structure and service offer. It is not expected that service usage will return to pre-pandemic levels, and therefore income, for a number of years as behaviour has been impacted by the pandemic. The pandemic will also



have affected service user behaviour and service delivery in some, as yet, unquantifiable ways.

Given the erosion of Councils' core funding, it is anticipated this lost income will need to be addressed through efficiencies and service redesign – meeting future pay awards will compound this challenge.

There needs to be fair funding to Local Government to enable ongoing and sustainable investment in culture and leisure services to support recovery and ensure wider benefits such as physical and mental health are enjoyed by communities. This must be a critical part of 'whole system' thinking, and about addressing the social determinants of health. Local Government and the wider public sector are anticipating significant challenges over the next few years as we recover from the pandemic, which is likely to place additional pressures on budgets. It is therefore critical that Local Government is sustainably funded to deliver all of the services, which should be recognised for the value that they add to our communities and to recovery.

COSLA submitted to a response to the Constitution, Europe, External Affairs and Culture Committee's Funding for Culture consultation, which considered these issues in more detail. The full response can be found here: [Response 122994077 to Funding for Culture - Scottish Parliament - Citizen Space](#)

## North Lanarkshire Council submission of 18 February 2022

### PE1912/G - Funding for Council Venues

North Lanarkshire Council fully supports the position on the importance of culture and sport provision to local communities. It is understood and accepted that culture and sport have a significant impact on society with four key impacts on improved health, reduced crime, increased social capital and improved education outcomes.

In support of the Culture Strategy for Scotland and sportscotland's Sport for Life programme, North Lanarkshire Council has a strategic framework which places culture and sport at the heart of plans for community support and the overall Plan for North Lanarkshire. Overall, the framework delivers support to:

- Health and wellbeing
- The local economy
- Education
- Reducing inequality
- And supporting our commitment to working with local communities.

Since returning from ALEO status to North Lanarkshire Council, significant progress has been made in each of these key areas. Working with NHS partners, direct support has been provided to those with physical and mental wellbeing conditions with life changing results. Within the council, we work with colleagues to provide direct support to those most vulnerable residents, ensuring we listen to our community and provide the services they really need in a way that suits them.

Overall, we understand that services must respond to changes in society and in keeping with our overall direction as set out within the Plan for North Lanarkshire and our Delivering for Communities model, we are working to ensure our delivery model for the future aligns with plans for the forthcoming Town and Community Hub model and takes services to the heart of our communities. This may mean delivering services in a different way or from different locations.

While this ongoing review will seek to ensure that culture and sport services operate as efficiently as possible, we recognise the importance of ensuring proper investment to maximise community benefit. However, the competitive and volatile market faced by local government operated venues and facilities makes existing income targets challenging and investment options limited.

As COSLA's '[Live Well Locally](#)' campaign highlights, local government is 'key to creating the conditions for improved health and wellbeing' with local government services critical to addressing the social determinants of health (including leisure and recreation). With rising cost pressures linked to increasing demand for services, general inflation and challenging financial settlements from the Scottish Government it is becoming increasingly difficult to maintain current levels of service provision across all areas of local government activity.

To ensure councils can achieve balanced budgets and to continue to comply with Scottish Government directions on implementation of national policies, savings have to be taken from areas that have

elements of non-statutory or discretionary service provision. Unfortunately, that includes areas such as the provision of culture, sport and leisure services.

While no local authority wants to make savings in these areas, the continuing lack of fair funding for all council services as highlighted in COSLA's 'Live Well Locally' campaign requires difficult and often unpalatable decisions to be made about the level of services provided within local communities.

## Fife Council submission of 22 February 2022 PE1912/H - Funding for Council Venues

Fife Council recognises the issues raised in this petition. This response sets out the challenges faced by Fife Council in maintaining and running venues, providing essential services and local jobs.

We share the view put forward by the trade unions that the closure of sports and cultural venues, or a reduction in the services provided from these venues, will negatively impact on the physical and mental health and wellbeing of our citizens. Cultural and leisure services are significant contributors to local and national economies and the maintenance of, and access to, these services and venues is critical to address inequality, poverty and improved educational attainment. This is particularly the case as we develop people and places approaches, and implement our plans for recovery as we emerge from the Covid-19 pandemic and encourage citizens back into these venues.

A planned capital investment programme has a direct improvement on the physical and mental wellbeing of local people by ensuring the provision of state-of-the-art sport, leisure, cultural and community facilities. Our capital investment programme in Fife achieves this, but is reliant on external match funding to supplement the resources available within the Council's budget. Recent investments have included an additional £7.5m for sports and leisure facilities and £3.5m for arts and culture venues across the region as well as funding from Government, **sportscotland**, and national governing bodies.

Such essential capital investment must be complemented by revenue funding to ensure the continued provision of essential services in all our venues. From this perspective, changes required to balance budgets, along with increasing demand for services, have led to a reduction in community-based provision across Fife, with many operations now

running with significantly less resource than previously. In some cases, the staffing for front line service delivery is under-resourced for the scale of provision that is on offer and in demand from local people. Individual facility budgets have become stretched, and often overspent, in order to maintain service delivery requirements and meet customer expectations.

Pressure on revenue budgets has impacted on service delivery, including the closure of some services and a reduction in the operation of others in terms of hours, days, and weeks per annum. It is therefore challenging to provide the flexibility needed to respond to emerging community needs within our facilities, particularly service provision outside core operational periods. Additional costs have to be borne by service users through increased prices, and becomes prohibitive for some of our most vulnerable users.

Fife Council operates many large venues and facilities, often in old or ageing buildings. Energy costs are already high and current increases in prices will significantly impact on budgets and the financial viability of buildings and services. Fife Council continues to proactively review opportunities to enhance existing, or create new facilities, both directly managed/operated and in partnership with our arm's length external organisations (ALEOS) and community groups in order to minimise revenue costs. It is important that venues remain cost efficient and fit-for-purpose. Area and place-based programming, as well as community asset modelling, allow us to consider the options for streamlining budgets and protecting frontline services; and while this identifies some buildings for closure, many are also earmarked for refurbishment and co-location opportunities.

Fife Council has a resourced, structured, and ongoing programme of maintenance and upgrade for the existing portfolio of sports, leisure, cultural and community facilities. This aims to ensure that buildings continue to meet demand, while maintaining DDA and other health and safety requirements. However, the lack of capacity in revenue budgets, despite careful management, can lead to spaces within venues being closed for periods due to the lack of funding for essential repairs and maintenance. Additional revenue funding would combat the need for these short-term closures or reductions in services.

The loss of income over the past two years has meant that the repair and maintenance backlog for existing buildings and venues is increasing, with an inability to always provide pro-active maintenance across our estate. The result is a negative impact on the functionality of

some venues, the viability of assets, their visual appearance, and therefore appeal, as well as on the ability to meet customer expectations and needs.

In addition, Councils have to make difficult funding decisions based on both national and local priorities, such as addressing climate change, tackling the growing prevalence of flooding and, of course, the impact of covid lockdowns. Funding having to be diverted to other priorities can lead to some communities being better served than others and a need for additional revenue funding to bring venues to a point where they provide a fit-for-purpose, modern service reflecting the needs and demands of local expectations.

For these reasons, Fife Council urges the Scottish Government to provide the necessary additional revenue to local Councils to effectively run essential services and venues locally.

# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday  
18 May 2022

## PE1913: Fast-track future Adult Disability Payment applications for people undergoing cancer treatment

### Note by the Clerk

**Lodged on** 30 November 2021

**Petitioner** Wendy Swain

**Petition summary** Calling on the Scottish Parliament to urge the Scottish Government to create a separate department within Social Security Scotland that will fast track future Adult Disability Payment (ADP) applications for people with a cancer diagnosis whilst they are undergoing treatment.

**Webpage** <https://petitions.parliament.scot/petitions/PE1913>

### Introduction

1. The Committee last considered this petition at its meeting on [2 February 2022](#). At that meeting, the Committee agreed to write to Macmillan Cancer Support and Cancer Research UK.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from Cancer Research UK and Macmillan Cancer Support Scotland which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).

5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

## **Action**

The Committee is invited to consider what action it wishes to take.

### **Clerk to the Committee**

## Annexe A

# PE1913: Fast-track future Adult Disability Payment applications for people undergoing cancer treatment

## Petitioner

Wendy Swain

## Date lodged

30/11/2021

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to create a separate department within Social Security Scotland that will fast track future Adult Disability Payment (ADP) applications for people with a cancer diagnosis whilst they are undergoing treatment.

## Previous action

Calling on the Scottish Parliament to urge the Scottish Government to create a separate department within Social Security Scotland that will fast track future Adult Disability Payment (ADP) applications for people with a cancer diagnosis whilst they are undergoing treatment.

## Background information

One in two people in the UK will be diagnosed with cancer in their lifetime - around 33 million individuals. The most difficult and challenging time for a family is when you undergo treatment and are unable to work. From 2022 PIP will be devolved. There have been many examples under the current system when people undergoing treatment do not receive their PIP at a time they need it the most. This is forcing people into hardship or back to work while undergoing treatment. I believe that the devolution of PIP and change to Adult Disability Payment offers an opportunity to change the system to make it fairer for people undergoing cancer treatment.



I want to ensure that the principles of being treated with dignity, fairness and respect are applied to people and that they are able to access ADP during their treatment when they most need support.

## Annexe B

### Extract from Official Report of last consideration of PE1913 on 2 February 2022

**The Convener:** Under item 3, we have just one new petition to consider. As I say to any petitioner tuning in for the first time, in advance of our consideration of a new petition we send it to the Scottish Government to seek its views so that our discussion is just a little bit better informed before we launch into consideration of it.

PE1913 has been lodged by Wendy Swain and it calls on the Scottish Parliament to urge the Scottish Government to create a separate department in Social Security Scotland that will fast-track future adult disability payment applications for people with a cancer diagnosis while they are undergoing treatment.

I am delighted to welcome Martin Whitfield, who is joining the committee on his first visit to the public petitions process, I think. We will hear from him in a moment, but first I will provide some further background on the petition.

Adult disability payment will replace personal independence payment in 2022. The Scottish Government's submission states that the definition of terminal illness will be changed under ADP to remove arbitrary time constraints and ensure that decisions are better informed by clinical judgment. Research into the impact of the new definition has revealed that the number of people with cancer accessing ADP using the fast-track process will more than double compared to Department for Work and Pensions fast tracking.

It is estimated that the number of terminally ill ADP recipients who have cancer will increase from 2,800 to approximately 8,200 under the new definition—a whopping increase—and it is projected that a majority of ADP recipients with cancer, 62 per cent, will be able to use fast-tracked processes, compared with less than a third who were able to do so under PIP. Further changes to the delivery of disability benefits through ADP are detailed in the clerk's note. The Scottish Government has stated that it does not support an additional fast-track route specifically for people with cancer and that its approach will not prioritise any single condition over another.

The petitioner shares the experience of her family member who has incurable blood cancer and who has been told that his illness is not affecting his life enough for him to receive PIP.

Before the committee considers the petition, I welcome Martin Whitfield and invite him to speak in support of it.

**Martin Whitfield (South Scotland) (Lab):** Thank you very much, convener, and good morning to you and the committee. A very educational morning it has been too, listening to your debates.

I thank Wendy Swain for lodging the petition. She has shared family circumstances that are incredibly trying. This Friday is of course world cancer awareness day, so it is perhaps apt, if only coincidental, that this petition should come before your committee this week.

We are at the moment of transition from PIP, which is Westminster-controlled benefit, to ADP here in Scotland, where one of the great promises of devolution is the ability to do things differently. I welcome the additional submissions that the petitioner has made, which very eloquently express the circumstances of her family. I thank the Scottish Parliament information centre and your clerks for the accompanying notes.

I understand why the substantive part of the Government's response of 1 December relates to the changes for this benefit in respect of terminal illness, but not all cancers are terminal, thankfully. Nevertheless, cancers affect every individual and their family when they receive that diagnosis. The petitioner's intention was to raise awareness of the circumstances where cancer is not identified as terminal early on in the diagnosis but the effects are still enormous and substantial. I can do no more than highlight the original background information that the petitioner gave, which was that she lodged the petition to “ensure that the principles of being treated with dignity, fairness and respect are applied to people and that they are able to access ADP during their treatment when they most need support.”

That treatment needs to begin very swiftly and it is at that point that the financial impact of cancer hits families—and hits them very hard.

I know that the Government has said that it does not want to prioritise how it deals with applications by condition but merely wants to base it on the terminality of the condition. It has said—I think that we are all in agreement with this—that it hopes that the voyage of any claimant is far better under ADP than ever it was under PIP. That is both applauded and welcome.

However, the petition talks about the effect of a cancer diagnosis and how that was exacerbated by the experience that the petitioner had with a family member trying to obtain PIP and the stress and almost mental harassment that occurred because of events that were outwith the individual's control. We need to have a fast-tracked system for people with cancer. It is certainly one of the few conditions where the mere name of it sends a shudder of fear through people who have not experienced it. People who receive a cancer diagnosis are often in difficult circumstances and to then have the financial barriers that loom so quickly afterwards is enormously challenging.

Because of the week that we are in but also because we are currently designing what this benefit will look like in Scotland, there is an opportunity to understand

through the charity and third sector organisations that deal with cancer how widespread this problem is and why dealing with it quickly is of huge benefit to those who are going through the system. Thank you, convener.

**The Convener:** Thank you for that contribution, Mr Whitfield, and particularly on behalf of the petitioner. Notwithstanding how this is subsequently resolved, when someone is told that their illness is not affecting their life enough, I wonder how that definition is arrived at and whether the person imparting that sage advice would feel much the same way if it was being imparted back to them in return. It seems to me remarkably unsympathetic.

Colleagues, are there any suggestions how we might proceed?

**David Torrance:** I would like to keep the petition open. We should write to the charities Macmillan Cancer Support and Cancer Research UK to seek their views on what the petitioner is calling for but also to seek their views on how improvements by the Scottish Government will affect payments for people.

**Alexander Stewart:** As Mark Whitfield indicated in his presentation, we have an opportunity here to engage with the third sector. We talk about dignity, fairness and respect, and I think that it fits those criteria for us to at least investigate this matter for those individuals going through the horrific experience of being given such news and having to cope. The third sector organisations have a wealth of knowledge and experience of what takes place with individuals who are suffering, so it would be very beneficial to have their input as well as to find out from the Scottish Government how it wants to progress this. We should keep the petition going so that we can clarify that and take further information and evidence.

The Convener: Are we content with those proposals? We will keep the petition open and we will write to the organisations as summarised. I thank Mr Whitfield for joining us this morning. We will hear and consider the petition further when we have received responses to those inquiries.

That concludes the open part of this morning's meeting. I thank those people who have been following our proceedings and we will now move into private session.

## Annexe C

### Cancer Research UK submission of 17 February 2022

#### PE1913/C – Fast-track future Adult Disability Payment applications for people undergoing cancer treatment

Thank you for giving Cancer Research UK (CRUK) the opportunity to respond to the above public petition.

CRUK provides people with general advice on coping with cancer, including practical matters such as money. But the specific issue raised in the petition is something which lies outside of CRUK's policy expertise. We regret, therefore, that we are unable to offer any substantive views on the petition.

We understand, however, that Macmillan Cancer Support have also been contacted and we hope they will be better placed to provide insights to the committee. I am also arranging for the petition to be drawn to the attention of the members of the Scottish Cancer Coalition, some of whom provide people with support on matters such as benefits. I hope Coalition members will be able to offer the committee some assistance.

I am sorry that we are unable to supply a detailed response, but I hope this letter is helpful nonetheless.

# Macmillan Cancer Support Scotland submission of 8 March 2022

## PE1913/D - Fast-track future Adult Disability Payment applications for people undergoing cancer treatment

Thank you very much for offering Macmillan Cancer Support the opportunity to contribute to your Committee's assessment of this newly devolved social security matter and the very real issues raised by the Petitioner Wendy Swain.

As a brief background, Macmillan Cancer Support has long experience of dealing with the welfare system across the UK on a practical level. Macmillan employ staff across the UK as Benefits Advisers to support cancer patients through the social security system – and we have thousands of nurses and support staff who sign-post patients to our benefits advisers and those of Citizens Advice and other organisations.

On a policy level, we regularly engage with UK Ministers and the DWP – and since the beginning of devolution of welfare powers to Holyrood we have worked with the civil service, Scottish Government Ministers, MSPs and the new Scottish Social Security Agency (SSSA) to help them with our understanding of the cancer patient journey through the benefits system, and to lobby for faster benefit application times.

On the back of this petition, Macmillan would like the Committee to urge the Scottish Government to ensure the new system of Adult Disability Payment in Scotland has the following principles:

1. Processing times for benefits applications are published regularly by the new SSSA so that we can all clearly monitor any delays – broken down by condition to help understand the situation raised by the Petitioner
2. Processing times for special rules cases (those with a Terminal Illness) are kept to the bare minimum of around a few days that we currently see from the DWP
3. The processing times for applications for normal rules (non-terminal patients) are far too long as the Petitioner

explains. Clear targets should be set to reduce these to 11 weeks or less.

4. Where possible, the system should maximise the use of paper-based assessments and make greater use of evidence from medical professionals, in order to avoid unnecessary face to face assessments. We welcome SSSA's emphasis on limiting face to face assessments.

# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday  
18 May 2022

PE1917: Provide full legal aid to all parents fighting for access to their children

## Note by the Clerk

**Lodged on** 2 December 2021

**Petitioner** Amy Stevenson

**Petition summary** Calling on the Scottish Parliament to urge the Scottish Government to provide full legal aid to all parents who are fighting for access to their child/children regardless of their income.

**Webpage** <https://petitions.parliament.scot/petitions/PE1917>

## Introduction

1. The Committee last considered this petition at its meeting on [23 February 2022](#). At that meeting, the Committee agreed to write to One Parent Families Scotland, Relationships Scotland, and the Scottish Legal Aid Board.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from Relationships Scotland, Shared Parenting Scotland and the Petitioner, which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.



6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

## **Action**

The Committee is invited to consider what action it wishes to take.

**Clerk to the Committee**

## Annexe A

# PE1917: Provide full legal aid to all parents fighting for access to their children

## Petitioner

Amy Stevenson

## Date lodged

2 December 2021

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to provide full legal aid to all parents who are fighting for access to their child/children regardless of their income.

## Previous action

I have contacted my local councillor and spoken with my MSP and they have advised that I raise a petition with the Scottish Parliament.

## Background information

It would reduce mental health issues and suicide rates if we could allow all parents legal aid when fighting for access to their children in courts regardless of their income. Money should not come in-between a child having a relationship with their parents. Parents are having to pay for access contact centers and court fees and unfortunately in some cases when parents run out of money to fight for access to their kids they have sadly ended their own lives. I had over 60 men write their own stories to me about fighting for their kids, struggling to afford court fees and feeling like giving up, all very similar circumstances. Granting legal aid would put an end to this and benefit the next generation.

## Annexe B

### Extract from Official Report of last consideration of PE1917 on 23<sup>rd</sup> February 2022

**The Deputy Convener:** PE1917, which has been lodged by Amy Stevenson, is on providing full legal aid to all parents fighting for access to their children.

The petitioner highlights that, when couples separate and are unable to agree on contact arrangements, parents are often faced with High Court costs and contact centre access fees that they might struggle to afford. She states that that often results in many parents experiencing mental health issues.

The Scottish Government's submission on this petition highlights a 2019 consultation on legal aid reform in which 75 per cent of respondents agreed that those who could afford to contribute towards costs should do so. It also explains that

“The number of cases relating to child contact and residence means that providing legal aid without a means test for those seeking these court orders would have a considerable impact on the legal aid budget”,

and it advises that the Scottish Government provides financial support to Relationships Scotland for the operation of contact centres.

Do colleagues have any comments?

**Ruth Maguire:** I appreciate the Scottish Government's response regarding the details of legal aid and the consultation that has taken place. I also appreciate the point about means testing and affordability in a budget context. Nonetheless, the matter is really important. It comes up in my constituency casework—as, I am sure, it does for other members of the committee.

The petitioner talks about the mental health impact on parents. We need to remember that the issue is not simply access to justice but the wellbeing of children. We need to ensure that what we have in place is as helpful as possible to families that are going through break-ups and looking after children.

I suggest that, in the first instance, we write to some stakeholders to seek their views on the issues that are raised, perhaps including One Parent Families Scotland, Relationships Scotland, the Scottish Civil Justice Council and the Scottish Legal Aid Board.

**Alexander Stewart:** I concur with Ruth Maguire's comments; there is no doubt that there is an impact on mental health. In situations in which there is domestic abuse, it is important that that is recognised.

Only yesterday, the Equalities, Human Rights and Civil Justice Committee held a round-table event on a very similar topic involving access to support for families and young people. It would be useful for us to take on board and think about what came out of that evidence session. I would be very keen to continue the petition in order to see what more information we can glean on the issue, and we can analyse that at a later stage.

**Paul Sweeney:** I concur. I recognise that some of the issues are being raised in casework, and the petitioner has identified a valid public need to investigate the issue further, so I am content with the suggestion that we continue the petition.

**The Deputy Convener:** We will keep the petition open and write to all the relevant stakeholders. Are members agreed?

**Members** *indicated agreement.*

## Annexe C

### Relationships Scotland submission of 29

March 2022

### PE1917/B – Provide full legal aid to all parents fighting for access to their children

Relationships Scotland welcomes this opportunity to comment on the matter of providing full legal aid to all parents seeking support for agreeing living arrangements for their children, regardless of their income.

Relationships Scotland is a network of 21 Member agencies providing a range of support to families with relationship difficulties. In the context of family law, we work with families with issues arising from separation and divorce, parenting, contact and residence disputes. This is primarily through family mediation, which helps parents to discuss and agree arrangements for the care of their children, and through Child Contact Centres that support children to have a relationship with a parent or carer who they no longer live with. We also offer counselling for adults, children and young people and parent education sessions (Parenting Apart).

Our experience of working with families in this context is that there are a number of issues with the current Legal Aid provision that is dependent on income.

- Where one parent is eligible and the other parent is not, this leads to an imbalance and one parent perhaps prolonging matters to the detriment of the other who is having to pay. If both parents were eligible they would be on an equal footing with no advantage or disadvantage to either side.
- Some parents who just fail to qualify for legal aid find it extremely difficult to fund the substantial costs associated with legal support. This may lead to them withdrawing and a child not having the opportunity of a relationship with this parent.

- If a parent who is not eligible for legal aid pursues contact with their child and has to fund the full costs themselves (for example for the supervised contact service) this can create significant hardship for those parents. It also generates ill-feeling between the parents, making any co-parenting relationship further down the line even more difficult.
- There is an increase in party litigants as parents are looking at alternatives to the high costs of legal support. Our understanding is that this is less efficient and more challenging for the court process.

We are aware of wider issues with the current legal aid provision

- Finding solicitors who are prepared to take on legal aid cases is a challenge, particularly in some parts of the country, most noticeably the Highlands & Islands, and Argyll & Bute areas.
- A significant and increasing number of families with complex issues (usually due to vulnerabilities / addiction / mental health / trauma) are not able to secure legal representation as solicitors are not prepared to take them on. These families are currently being 'turned away' due to not having money, and are not able to access the legal and contact services support that they need.
- Children and young people struggle to access legal aid as this is means tested based on their parents' resources.

Relationships Scotland supports the principle within the petition that money should not come in-between a child having a relationship with their parents. We are aware of many families where finance is a barrier, children are losing out and the stress is contributing to serious mental health issues. The current system is failing many children and their families.

We suggest that this consideration of extending the legal aid provision is focussed on Section 11 orders of the Children (Scotland) Act 1995 relating to parental responsibilities only. This would support children's rights under the UNCRC.

We appreciate that any extension of the criteria of eligibility might lead to more people seeking support through legal aid and perhaps prolonging the time that support is needed for.

We acknowledge that the current provision is more generous than some other jurisdictions, and that any expansion of the provision might have an impact on the public purse.

We suggest that the emphasis in funding is put on early resolution mechanisms such as mediation, use of child contact centres and co-operative solicitor negotiation that focusses on the needs of children to minimise the need to go to court. Costs in the court system could be saved if the system was front loaded.

## Submission from Shared Parenting Scotland of 18 April 2022

### PE1917/C: Provide full legal aid to all parents fighting for access to their children

Shared Parenting Scotland has been established as a separate Scottish Charity since 2010, initially as Families Need Fathers Scotland. We changed our name to Shared Parenting Scotland in February 2020 to reflect the increasing diversity of the individuals who contact us for information and advice - that is non-resident mothers as well as non-resident fathers, new partners, grandparents and brothers and sisters.

We had close to 1,000 active enquiries during 2021.

We staff a daily telephone helpline for individual enquiries. We run monthly support group meetings in Edinburgh, Glasgow, Stirling, Dundee and Aberdeen. All have returned to in person meetings after two years online during the period of Covid restrictions. We run one online meeting a month for people who are still uncomfortable with in person gatherings. All our meetings now have a family law solicitor in attendance on a pro bono basis for general advice about the law and legal procedures.

We also publish several free 'user guides' to help inform individuals about rights and responsibilities of parents in relation to maintaining and nurturing a meaningful relationship with their children after divorce or separation. [Downloadable guides and publications from Shared Parenting Scotland - Shared Parenting Scotland](#)

Our general advice for those who get in touch with us is to avoid going to court if at all possible. Family courts are unpredictable, slow, expensive and, sitting within the adversarial approach of civil justice, often generate entirely new tensions and disagreements between the parties as they seek to 'win time' with their children rather than collaborate to be as good co-parents as possible.

We believe the Scottish Parliament missed a major opportunity to change the narrative of family separation in the Children (Scotland) Act 2020. There is a frequently expressed perception among those who contact us that the current arrangements are simply unfair and do not achieve their stated paramount objective of putting the interests of the children first.

Setting aside therefore our view that it is usually better not to go to court we fully understand the frustration with the current system captured in the terms of Petition PE1917. It is drawing to the attention of the Committee entirely legitimate concerns that deserve Scottish Government attention.

First, there is an 'inequality of arms' phenomenon when one party has legal aid and the other has not. If one party is funded by the public purse there is a suspicion that there may be advantage, for example, in prolonging correspondence about trivial or non-existent matters or stalling on good faith negotiation that will lead to settlement. This not only wears down the finances of the non-legally aided party who may incur a substantial fee for every solicitor's reply. Far more important for the Committee to note is that the longer the correspondence can be strung out the more it may damage the relationship of the child with the other parent as a new status quo sets in.

Secondly, we suspect it is not commonly known by legislators unless they have personal experience just how expensive even an average family court case can become, quickly running into tens of thousands of pounds for a non-legally aided party. We have seen costs of £30,000 - £50,000 in cases that raised no great legal issues or safety concerns about either parent. We have also seen more complicated cases topping £100,000.

While it has been a matter of some pride within the Scottish Government that we continued to make legal aid available for family cases after it was stopped in England and Wales the cut-off point is not generous in the context of average family law case costs. The marginal cost for a



party being a few pounds over the resources threshold can be catastrophic.

The choice for many parents in that situation is to give up, sometimes walking away from their children completely, or to represent themselves as a Party Litigant.

Our most downloaded user guide is [Representing Yourself in Scottish Family Court - Shared Parenting Scotland](#). In recent monthly meetings up to half of attendees are considering or have already become Party Litigants.

We are aware of a number of Party Litigants who have been largely successful though all will admit that running their own case became effectively a full-time preoccupation. We are aware of others who have found it difficult to separate their emotional commitment to the case and to their children from the requirement of the court for evidence to be independently verified.

In this specific context there is an issue that already crops up for Party Litigants who take their case to proof. What can be done if the Party Litigant is prevented from cross examining their former partner? Sheriffs are already wrestling with this as an interests of justice issue. At the very least there will have to be a legally aided alternative when the possibility of cross examination is stopped entirely.

Our view, expressed separately to the Scottish Government and to the Scottish Legal Aid Board and to the Evans Review of Legal Aid is that legal aid can play an important role in supporting alternative, less adversarial routes to helping parents resolve their disagreements after separation or divorce. Parents need support in putting the broad welfare of their children first exactly at the time when they may be least able to do it amid the disruption of their relationship break up.

Our children and their parents really need less court, not more. Parenting should not be means tested. In the meantime, however, fundamental issues of child welfare as well as access to justice have been identified by this petition and we urge the Committee to take them forward.

## Petitioner submission of 8 May 2022

### PE1917/D – Provide full legal aid to all parents fighting for access to their children

Thank you for taking on my petition and understanding there is a gap between 2 parents splitting up and what's in the best interest of the child. Too many children are growing up in a 1 parent family due to 1 parent withdrawing contact from the other parent without a valid reason. This is having a detrimental impact on a child's upbringing and the alienated parents' mental health. There needs to be a system in place to stop this from happening. I hope that going forward a social work review and a contact agreement will come from a registered professional rather than the parents who cannot agree contact arrangements. This will help minimise parents having to spend thousands of pounds in court fees and reduce the amount of time that the child will be alienated from their other parent.

# Citizen Participation and Public Petitions Committee

9th Meeting, 2022 (Session 6), Wednesday  
18 May 2022

PE1925: Bring the HGV speed limit on major  
trunk roads to 50mph in line with other parts  
of the UK

## Note by the Clerk

<b>Lodged on</b>	8 February 2022
<b>Petitioner</b>	David Singleton
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to increase the 40mph speed limit for HGVs to 50mph in line with other parts of the United Kingdom.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE1925">https://petitions.parliament.scot/petitions/PE1925</a>

## Introduction

1. The Committee last considered this petition at its meeting on [9 March 2022](#). At that meeting, the Committee agreed to write to the Scottish Government.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received a new response from the Scottish Government, which is set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

## **Action**

The Committee is invited to consider what action it wishes to take.

**Clerk to the Committee**

## Annexe A

# PE1925: Bring the HGV speed limit on major trunk roads to 50mph in line with other parts of the UK

## Petitioner

David Singleton

## Date lodged

8 February 2022

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to increase the 40mph speed limit for HGVs to 50mph in line with other parts of the United Kingdom.

## Previous action

Several years ago I raised this issue with Emma Harper MSP face to face including the upgrade of the A75 and A77 but received no comment.

## Background information

The current HGV speed limit is outdated as HGV braking and stability systems have improved since it was brought in.

In my view many incidents on our trunk roads are caused by vehicles driving at the national speed limit overtaking in dangerous places, causing disruption and expense to many including the Police.

A trial increasing the speed limit of HGV's on the A9 has been running for a few years now and has proved that accidents have declined.

## Annexe B

### Extract from Official Report of last consideration of PE1925 on 9<sup>th</sup> March 2022

**The Convener:** Our final new petition today is PE1925, which is on changing the heavy goods vehicle speed limit on major trunk roads to 50mph, in line with other parts of the UK. The petition was lodged by David Singleton, who points out that that speed limit is 40mph in Scotland. He urges us to urge the Scottish Government to increase it to 50mph so that there is consistency.

The Scottish Government has stated that, in 2018, it conducted its

“own evaluation of the potential impacts of increasing speed limits for HGVs in Scotland”,

and it found that there would be

“small safety benefits and marginal environmental impacts”

in doing so. A pilot scheme that increased the speed limit for HGVs to 50mph on the A9

“showed positive road safety benefits”.

The Scottish Government is considering its policy on HGV speed limits as part of the national speed management review. That review, which has commenced, will consider appropriate vehicle speeds for Scotland’s roads and will include stakeholder and public consultation.

However, the petitioner remains unconvinced that the Scottish Government is planning to increase the HGV speed limit on major trunk roads. He urges Scottish Government officials

“to travel with a driver of an HGV on the 100 mile A75 trunk road in both directions on the same day”,

going

“One way at the 40 mph limit and the other way at a higher speed when and where it is safe to do so.”

The petitioner believes that doing that

“would give them some idea of the problems caused by slow moving traffic”

and some comfort in relation to an increase in the speed limit.

The petition is interesting, as the petitioner has highlighted something that the Scottish Government is looking at. However, he is not convinced that that will necessarily lead to anything.

Do members have any comments or suggestions for action?

The Scottish Government says that it is having a review. We might reasonably ask for some clarity on when it thinks that that might come to fruition. Maybe we should ask whether there is any way in which the petitioner or others can engage with the Scottish Government in relation to the underlying issues. I am not sure that the Scottish Government will want to take up the offer of an HGV lift up and down the A75, but I am sure that we would be happy to draw that to its attention.

Are colleagues content with that approach?

**Members** *indicated agreement.*

## Annexe C

Scottish Government submission of 1 April 2022  
PE1925/C – Bring the HGV speed limit on major trunk roads to 50 mph in line with other parts of the UK.

Thank you for your letter of 11 March 2022 asking for clarity on when HGV speed limits will be considered as part of the National Speed Management Review and asking how the petitioner could engage directly with the Scottish Government on these issues.

The National Speed Management Review covers comprehensive analysis of all types of speed management policies and initiatives. This includes speed limits such as on HGVs, enforcement, education and behaviour including nudge psychology. Stage 1 is still ongoing and includes a review on current speed management in Scotland as well as a review of speed management policies and initiatives used in other countries throughout the world.

Transport Scotland would be happy to engage directly with the petitioner.