PUBLIC PETITIONS COMMITTEE

AGENDA

11th Meeting, 2015 (Session 4)

Tuesday 26 May 2015

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Consideration of a continued petition:** The Committee will consider—

   PE1558 by John Thom, on behalf of RNBCC Crayfish Committee, Ken Dee Catchment, on American Signal Crayfish

   and take evidence from—

   Dr Scot Mathieson, Principal Policy Officer (Conservation), Scottish Environment Protection Agency;

   Professor Colin Bean, Policy and Advice Manager (Freshwater), Scottish Natural Heritage.

2. **Consideration of new petitions:** The Committee will consider—

   PE1563 by Doreen Goldie, on behalf of Avonbridge and Standburn Community Council, on sewage sludge spreading

   and take evidence from—

   Doreen Goldie, and Jo Hirst, Avonbridge and Standburn Community Council;

   and will then consider—

   PE1564 by James Treasurer, on behalf of the Friends of the Great Glen, on saving Loch Ness and the Great Glen

   and take evidence from—

   James Treasurer.
3. **Consideration of continued petitions:** The Committee will consider—

- [PE1319](#) by William Smith and Scott Robertson on improving youth football in Scotland;
- [PE1480](#) by Amanda Kopel, on behalf of the Frank Kopel Alzheimer's Awareness Campaign, on Alzheimer's and dementia awareness;
- [PE1505](#) by Jackie Watt on awareness of Strep B in pregnancy and infants;
- [PE1531](#) by Ashley Husband Powton on removing charitable status from private schools;
- [PE1545](#) by Ann Maxwell, on behalf of the Muir Maxwell Trust, on residential care provision for the severely learning disabled;
- [PE1548](#) by Beth Morrison on national guidance on restraint and seclusion in schools;
- [PE1551](#) by Scott Pattinson on mandatory reporting of child abuse.

4. **Annual report:** The Committee will consider a draft annual report for the parliamentary year from 11 May 2014 to 10 May 2015.

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The following papers are attached for this meeting—

**Agenda item 1**

PE1558  Note by the Clerk  PPC/S4/15/11/1

PRIVATE PAPER  PPC/S4/15/11/2 (P)

Galloway Fisheries Trust / River Nith Salmon District Fishery Board / Clyde River Foundation / River Annan Salmon District Fishery Board Letter of 19 May 2015  PE1558/E

**Agenda item 2**

PE1563  Note by the Clerk  PPC/S4/15/11/3

PE1564  Note by the Clerk  PPC/S4/15/11/4

Petitioner Email of 14 May 2015  PE1564/A

**Agenda item 3**

PE1319  Note by the Clerk  PPC/S4/15/11/5

Scotland’s Commissioner for Children and Young People Report of 20 May 2015  PE1319/YY

PE1480  Note by the Clerk  PPC/S4/15/11/6

COSLA Letter of 20 April 2015  PE1480/J
Scottish Government Letter of 5 May 2015  PE1480/K
Petitioner Email of 18 May 2015  PE1480/L

PE1505  Note by the Clerk  PPC/S4/15/11/7

Scottish Government Letter of 17 April 2015  PE1505/O
Petitioner Email of 17 May 2015  PE1505/P

PE1531  Note by the Clerk  PPC/S4/15/11/8

Office of the Scottish Charity Regulator Letter of 20 April 2015  PE1531/L
Petitioner Letter of 21 April 2015  PE1531/M
Scottish Council of Independent Schools Letter of 22 April 2015  PE1531/N

PE1545  Note by the Clerk  PPC/S4/15/11/9

Chief Social Work Adviser Letter of 2 April 2015  PE1545/A
Learning Disability Alliance Scotland Letter of 2 April 2015  PE1545/B
Scottish Consortium for Learning Disability
Letter of 7 April 2015
Scotland Excel Email of 5 May 2015
Petitioner Letter of 19 May 2015

PE1548  Note by the Clerk

Children 1st Letter of 9 April 2015
ENABLE Scotland Letter of 16 April 2015
Scotland’s Commissioner for Children and Young People Letter of 16 April 2015
Learning Disability Alliance Scotland Letter of 17 April 2015
Care Inspectorate Letter of 20 April 2015
Scottish Government Letter of 21 April 2015
COSLA Letter of 20 April 2015
Educational Institute of Scotland Letter of 23 April 2015
Petitioner Letter of 18 May 2015
Dr Brodie Paterson Letter of 17 May 2015
Down’s Syndrome Scotland Letter of 20 May 2015

PE1551  Note by the Clerk

Children 1st Letter of 17 April 2015
Care Inspectorate Letter of 20 April 2015
Barnardo’s Scotland Letter of 20 April 2015
NSPCC Scotland Letter of 17 April 2015
Dr Sarah Nelson Email of 21 April 2015
Shelter Scotland Letter of 20 April 2015
Petitioner Emails of of 13 May 2015 and 18 May 2015

Agenda item 4

Draft Annual Report 2014-15
PE1558 on American signal crayfish

Note by the Clerk

PE1558 – Lodged 20th February 2015
Petition by John Thom on behalf of RNBCC Crayfish Committee, Ken Dee Catchment calling on the Scottish Parliament to urge the Scottish Government to amend the existing licencing regime to allow for the commercial trapping of American Signal Crayfish in Scotland.

Purpose

1. The Committee last considered this petition on 28th April 2015. At that meeting, the Committee agreed to invite Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA) to give evidence. Following today's evidence session, the Committee is invited to decide what action to take on the petition.

Committee Consideration

2. At its meeting in Dumfries on 23rd February 2015, the Committee considered a joint submission by SNH and SEPA and took evidence from the petitioner.

3. SEPA and SNH do not support the petition. Instead, they believe raising public awareness is the best way to control the spread of this species.

4. In her letter of 25th March 2015, the Minister for Environment, Climate Change and Land Reform summarised the Government’s position saying: ‘...the risks associated with establishing a fishery for North American Signal Crayfish are significant and far outweigh any potential benefits’.

5. The petitioner noted in written evidence of 17th February 2015 and 12th April 2015 that progress on undertaking further research had been too slow and existing educational programmes were ineffective. In contrast, he argues his proposal would remove the monetary incentive for deliberate spreading, boost the local economy and provide the funds needed to run scientific studies.

6. The Committee has received a joint submission from Galloway Fisheries Trust, River Nith District Salmon Fishery Board, Clyde River Foundation and River Annan District Salmon Fishery Board opposing the petition.
Action

7. The Committee is invited to consider its next steps. Options include –

(i) To reflect on the evidence given by SNH and SEPA and consider a paper at a future meeting;

(ii) To take any other action the Committee considers appropriate.
Public Petitions Committee

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PE1563 on sewage sludge spreading

Note by the Clerk

PE1563 – Lodged 16 April 2015
Petition by Doreen Goldie, on behalf of Avonbridge and Standburn Community Council, calling on the Scottish Parliament to urge the Scottish Government to ban the use of sewage sludge on land and to look for alternative acceptable methods of disposal as adopted in other European countries.

Purpose

1. This is a new petition that collected 1,406 signatures and attracted 6 comments all supportive of the petition. One suggested that sewage should be composted and methane used for electricity production.

2. After hearing from the petitioner, the Committee is invited to consider what action it wishes to take on the petition.

Background – the following is taken from the SPICe briefing

3. Sewage sludge is a by-product of the waste-water treatment process. According to the UK Department for Environment, Food and Rural Affairs, treated sewage sludge - also known as ‘biosolids’ - has several valuable properties. It:
   
   - is a readily available alternative soil-building material
   - contains nutrients and valuable trace elements essential to animals and plants
   - is a more efficient and sustainable alternative to inorganic fertilisers and mineral fertilisers - such as phosphate
   - provides a source of slow-release nitrogen ideal for use in land restoration
   - is a good substitute for peat in land-reclamation projects thus conserving valuable natural peatland

4. However, sewage sludge can contain heavy metals which may be harmful to humans and animals unless it is applied correctly.

Regulations on the application of sludge to farm land

5. The Netregs website has guidance on environmental regulations for businesses in Scotland and Northern Ireland. It has a page which explains how the spreading of sewage sludge on agricultural and other land is regulated.

6. On farm land, different rules apply to farms in Nitrate Vulnerable Zones. There are four Nitrate Vulnerable Zones in Scotland - Lower Nithsdale; Edinburgh, East
Lothian and the Borders; Strathmore and Fife; Aberdeenshire, Banff, Buchan and Moray (see maps). In these areas strict rules apply to the use of fertilisers (including the use of sewage sludge) to reduce the risk of nitrate pollution.

7. All farmers who apply sewage sludge to land must comply with the Sludge (Use in Agriculture) Regulations 1989 (as amended). They prohibit the use of sludge from waste water (sewage) treatment works and septic tanks being spread on agricultural land unless specified requirements are fulfilled. They also specify certain activities that are not permitted on land following sludge application, until prescribed periods of time have lapsed.

8. Sewage sludge must not be applied to land:

- within 10m of any ditch, burn, river, loch, wetland or coastal water (on sloping ground a wider buffer zone may be required).
- within 50m of any spring that supplies water for human consumption or any uncapped well or borehole.
- on waterlogged or snow covered ground.
- on shallow soils (average depth of less than 40cm over gravel or fissured rock)

9. Additional requirements are that:

- Farmers must only use sewage sludge that has been tested according to the Sludge Regulations, and this must not exceed the limit on the average annual rate of addition of metals in the sludge. They must not spread sewage sludge on a field unless they have tested the soil according to the Sludge Regulations. This includes checking that the limit on the concentration of metals in the soil will not be exceeded by spreading the sludge. Sludge must not be spread on land that has a soil pH of less than five.

10. Sewage sludge or septic tank sludge must not be used:

- when fruit, other than fruit trees, or vegetables are growing or are to be harvested in the soil
- without taking the nutrient needs of the plants into account
- if it will damage the quality of the soil, surface water or groundwater.

11. Farmers must give a sewage sludge producer information about any past sludge use by a different producer. This should include details of where, when and how much sludge was used and who supplied it.

12. After sewage sludge or septic tank sludge has been applied, farmers must not:

- graze animals or harvest forage crops for at least three weeks
- harvest fruit and vegetable crops that are grown in direct contact with the soil, and that are normally eaten raw, for at least 10 months.
13. After sewage sludge or septic tank sludge has been applied, farmers must:

- Work untreated sludge into the soil as soon as possible. Untreated sludge is sludge or septic tank sludge that has not undergone biological, chemical or heat treatment, long-term storage or a process to reduce its fermentability and health hazards.
- Inform SEPA immediately if sewage sludge enters a watercourse.

14. The Prevention of Pollution from Agricultural Activity (PEPFAA) Code is intended to provide practical guidance for farmers, on minimising the risks of environmental pollution from farming operations. The code includes measures which farmers are required to undertake/comply with by law; measures which they are required to comply with in order to receive farm subsidies; and other measures which are best practice. Section 5 of the Code sets out the Dos and Don'ts for the use of non-agricultural wastes, including sewage sludge. It sets out the regulatory requirements described above, with additional best practices.

The Safe Sludge Matrix

15. Water UK representing the UK Water and Sewage Operators and the British Retail Consortium (BRC) representing the major retailers have developed the Safe Sludge Matrix. It consists of a table of crop types, together with clear guidance on the minimum acceptable level of treatment for any sewage sludge which may be applied to that crop or rotation.

Spreading sludge on non-agricultural land

16. Netregs explains that businesses spreading sludge on non-agricultural land, e.g. land which is going to be planted with trees for forestry, must register an exemption from waste management licensing.

Scottish Government and Scottish Parliament Action

17. In July 2014 Angus MacDonald MSP tabled a parliamentary question (S4W-22218) asking the Scottish Government whether it plans to review the practice of sewage sludge spreading and the effectiveness of controls and enforcement powers. The response indicated that the Scottish Government intended to commission a review, led by SEPA but including a number of stakeholders, on the use of sewage sludge on land to ensure that this activity meets public expectations.

18. In March 2015 Margaret Mitchell MSP tabled a question (S4W-24823) asking when the formal review of waste spreading will commence, and whether the public will have the opportunity to respond. The Scottish Government indicated that the review began on 6 March 2015 and that a meeting with representatives of the Avonbridge and Standburn Community Council (the petitioners) had taken place.

19. The issue was also raised at Portfolio Question Time on 22 April 2015.
Action

20. The Scottish Government's review is underway. The Committee may therefore wish to write to the Scottish Government asking when the review is due to publish its findings and seeking confirmation that the review will take account of the issues raised by the petitioner.
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PE1564 on saving Loch Ness and the Great Glen

Note by the Clerk

**PE1564 – Lodged 16 April 2015**

Petition by James Treasurer, on behalf of the Friends of the Great Glen, calling on the Scottish Parliament to urge the Scottish Government to take steps to designate the Loch Ness and Great Glen as a National Scenic Area; to recommend a priority application is made to UNESCO for the area to be afforded World Heritage protection; and to take appropriate steps to discourage further wind turbine developments and support the restoration of sites damaged by wind turbines. [Link to petition webpage](#)

**Purpose**

1. This is a new petition. It collected 3,098 signatures and attracted 521 comments by individuals from across the world. The comments were almost exclusively about wind-farms, many arguing that tourism will be adversely affected by wind farms and many raising concerns about the impact of wind farms on wildlife. Few comments addressed the particular requests in the petition for the creation of a National Scenic Area or an application for World Heritage Site status for Loch Ness and the Great Glen. All appeared to be generally supportive of the aims of the petition.

2. The Committee has invited the petitioner to speak to the petition. After hearing from the petitioner, the Committee is invited to consider what action it wishes to take on the petition.

**Background – the following is taken from the SPICe briefing**

3. Loch Ness is situated within the Great Glen, a 100km-long valley system from Inverness to Fort William. Visit Inverness and Loch Ness describe the area as being home to ‘some of the most dramatic scenery in Scotland’.

**National Scenic Areas**

4. National Scenic Areas (NSAs) were first identified in 1978 by Scottish Natural Heritage’s predecessor organisation, the Countryside Commission Scotland. NSA’s are now defined by legislation as being “an area is of outstanding scenic value in a national context”. There are now 40 NSAs in Scotland which cover 13% of the land area. The Great Glen is not an NSA.

5. Scottish Ministers have the power to designate an area as an NSA. In doing so, Ministers must take account of the area’s natural beauty, whether the area is of historical or cultural importance, the nature of any buildings or other structures in the area, and any flora, fauna or physiographical features of the area.
Planning in NSAs

6. A stricter development control regime applies in NSAs. The Scottish Planning Policy (SPP), published in 2014, addresses planning policy in NSAs. It states that development that affects an NSA should only be permitted where:
   - the objectives of designation and the overall integrity of the area will not be compromised; or
   - any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

7. The SPP also states that onshore wind farms would not be acceptable in National Parks or NSAs.

World Heritage Site

8. The United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted the Convention Concerning the Protection of the World Cultural and Natural Heritage (the Convention) in 1972. UNESCO keeps a list of sites, which it considers as having outstanding universal value in terms of either its natural or cultural heritage. There are over 1000 World Heritage Sites and five in Scotland: New Lanark; the Old and New Towns of Edinburgh; Neolithic Orkney; the Frontiers of the Roman Empire (including the Antonine Wall) and St Kilda.

9. It is for a state party to the Convention (e.g. the UK) to nominate a site to be designated a World Heritage Site. The United Kingdom National Commission for UNESCO, states that: “the first step for an aspiring site is to be included on the UK’s tentative list of future nominations. The tentative list is a list of sites which the UK Government may consider nominating for World Heritage Status. This tentative list is usually set for 10 year period of time.” The UK last developed a tentative list in 2011. The Great Glen is not included on this list and there appears to be no official process for priority applications.

10. Once a site is designated as a World Heritage Site, UNESCO requires those responsible for the site to develop a management plan that identifies what is significant about the World Heritage Site, recognises challenges and threats, and sets out policies to preserve and enhance the Site.

Onshore wind farms

11. Under the Electricity Act 1989, proposals for onshore wind farms with an installed capacity of over 50 megawatts are considered and authorised by Scottish Ministers. Proposals for wind farms with an installed capacity of 50 megawatts or less are considered by the local planning authority.

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1 Scottish Natural Heritage, National Scenic Areas: development management (Online available at: http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/national-designations/nsa/dev-control/)
12. The SPP states that planning authorities should “set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities”. The SPP also states that wind farms may be acceptable under certain circumstances in “areas of significant protection” (e.g. World Heritage Sites or areas designated by SNH as ‘wild land’). However, any proposals for energy infrastructure should take account of, among other things: landscape and visual impacts, including effects on wild land; and the impacts on tourism and recreation.

13. SNH’s guidance for onshore wind farms emphasises the importance of ‘cumulative effects’ of multiple wind farms in the same area. An SNH map identifies Loch Ness and the Great Glen as generally within Zones of Lowest to Medium Natural Heritage Sensitivity. However, Loch Ness and the Great Glen do fall within the Loch Ness and Duntelchaig Special Landscape Area as designated by the Highland Council. This local designation is used ‘to assist in the determination of planning applications’, alongside the Highland-wide Local Development Plan.

Stronelanrig Decision

14. SNH objected to a wind farm at Stronelanrig near Loch Ness on account of ‘significant adverse effects’ on the Monadhliath wild land area immediately to the east of the Great Glen, advising that it would no longer be considered as wild land after construction of the Stronelairg site. The John Muir Trust has lodged a petition at the Court of Session for a judicial review in regard to this development. Further discussion on this case can be found in the SPICe briefing for this petition, which is included with Members’ papers.

Scottish Parliament Action

15. The National Planning Framework 3 (NPF3) was scrutinised by the Scottish Parliament in 2014. The Economy, Energy and Tourism Committee’s (EETC) report on NPF3 included aspects of planning relating to wind farms, including the use of SNH’s wild land mapping tool and the distance between wind farm developments and communities. The EETC also undertook an inquiry into the Scottish Government’s renewable targets in 2012. This inquiry touched on the impact of wind farms on tourism. The EETC’s report stated:

“Several witnesses made assertions that there would be a negative impact on Scotland’s tourism industry from renewable developments. However, these assertions were contradicted by research evidence from VisitScotland and others.”

However, the report recommended that VisitScotland and The Scottish Government continue to gather and take account of evidence from visitors to Scotland on this issue.

16. Colin Beattie MSP asked a Parliamentary Question (S4W-12676) in early 2013 regarding whether the benefits of wind farms outweigh the benefits from other activities, for example tourism. The response by the Scottish Government
indicated that it was committed to both the renewable and tourism industries. The Scottish Government indicated that it would examine the need for further research on the impact of wind farms on tourism.

**Action**

17. The Committee is invited to agree what action it wishes to take on this petition. The Committee may wish to seek written views, from, for example:

- Highland Council
- Scottish Natural Heritage
- Scottish Renewables
- John Muir Trust
- The Scottish Government
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PE1319 on improving youth football in Scotland

Note by the Clerk

PE1319 – lodged March 2010
Petition by William Smith and Scott Robertson calling on the Scottish Parliament to urge the Scottish Government to investigate the (1) legal status and appropriateness of professional SFA clubs entering into contracts with children under 16 years; (2) audit process and accountability of all public funds distributed by the Scottish Football Association to its member clubs; (3) social, educational and psychological affects and legality of SFA member clubs prohibiting such children from participating in extracurricular activity; and (4) appropriateness of ‘compensation’ payments between SFA member clubs for the transfer of young players under the age of 16 years; and to (5) increase the educational target from 2 hours curricular physical activity to four hours per week; and (6) develop a long-term plan to provide quality artificial surfaces for training and playing football at all ages across all regions.

Link to petition webpage for written submissions, written questions asked, SPICe briefing and previous consideration.

Purpose

1. At its meeting on 3 June 2014 the Committee agreed to invite Scotland’s Commissioner for Children and Young People to review the current youth player registration process and to report back to the Committee with his findings. The Commissioner has now come forward with his findings. The Committee is invited to consider them and decide what action to take on the petition.

Background summary and action to date

Session 3

2. The petition was lodged in early 2010 during Session 3. It called on the Scottish Government to investigate six issues in relation to youth football. Since then, three have been dealt with. Three (contracts/registration, compensation payments and restrictions on children participating in extracurricular activity) are still under consideration by the Committee. The view of the petitioners is that registration is a form of “contract” not appropriate for players of 15 years of age and younger.

3. The 2010 SPICe briefing provided the initial background to this petition. Session. The Scottish Government’s stance was, as the recognised governing body for football and the independent authority responsible for all decisions regarding the operation of its sport, the SFA is the appropriate authority to resolve issues regarding contracts/registration, compensation payments. It would encourage dialogue with the SFA to resolve any issue in its sport. However, while the Scottish Government is sensitive to what the SFA may perceive as unwarranted Government interference in its sport (which could have implications with the
sport’s worldwide governing body, FIFA), it would continue to monitor the situation.

4. The previous Committee received oral/written evidence from Scottish Government, the Scottish Football Association, the Scottish Football League, the Scottish Premier League, the Scottish Amateur Football Association, Scottish Youth Football Association, STUC, Scottish Child Law Centre, Scotland’s Commissioner for Children and Young People, KNVB (the Royal Dutch Football Association), a range of Local Authorities and others.

5. In a letter of May 2010 the SPL suggested that many of the petitioner’s concerns arose from misunderstandings. The SPL response was supported by the SFL. In general terms, the SPL did not think any action was necessary in relation to “contracts” as “SPL regulations did not permit a club to have any onerous hold over a young player.” In June 2010 the SFA said—

“Registration forms for age groups 10 to 14 are for a maximum of one season and lapse automatically at the end of each season. The registration form at age group 15 can be carried forward by the club into age group 16 and age group 16 can also be taken forward in age 17 by the club”

6. However in a letter to the Committee of May 2010 the then Scotland’s Commissioner for Children and Young People said—

“Registration agreements as they stand appear to offer very little flexibility and few opportunities for the child or young person to be released of their own accord. In addition, it appears that both parents and children have a very limited understanding of the scope of these agreements at the point of registration. In particular they lack an awareness of the penalties that may be involved in trying to free themselves from such an agreement at a later date.”

7. In January 2011 Shona Robison MSP, Minister for Public Health and Sport; Stewart Regan, Chief Executive, Scottish Football Association, Neil Doncaster, Chief Executive, Scottish Premier League; Tam Baillie, Scotland’s Commissioner for Children and Young People; Jim Sinclair, Director of Youth Development, Rangers Football Club; and Chris McCart, Head of Academy and Youth, Celtic Football Club all attended a meeting of the Committee and gave evidence.

8. The Session 3 Committee agreed to await the outcome of the Scottish Football Associations’ Review Group findings and to invite the incoming Session 4 Committee to give further consideration to the petition.

Session 4

Prohibitions on children participating in extra-curricular activity

9. In November 2011 the SFA advised that it had agreed a policy for young elite players to still play for their schools, even if signed for a professional club. Children who train several times a week and play matches at weekends are excluded and presumably are not able to play for their schools.
“contracts” and training compensation for children under 16

10. In 2012, the SFA formed a working party, chaired by Scottish FA President Campbell Ogilvie “to review the existing system of training compensation for youth players that is currently applied with senior Scottish football.” The Committee passed its evidence to Mr Ogilvie to take account of as part of the review. The conclusions of the working party were that:

- FIFA Regulations permit National Associations to adopt a system for the financial reward of clubs investing in training and education of young players
- The Scottish FA youth development programme “Club Academy Scotland” provided the most suitable vehicle for a uniform, fair and consistent mechanism for reimbursement of youth training costs
- A new reimbursement programme model should be based on the development contribution for clubs participating with in the Club Academy Scotland programme
- The new reimbursement system should be centrally administered by the SFA

11. In May 2014 the Committee convened a further evidence session attended by the petitioners, Neil Doncaster (SPFL), Andrew McKinlay (SFA) and John Murray of Heart of Midlothian FC. Andrew McKinlay outlined the changes regarding reimbursement of training costs noting that FIFA requires associations to have a system in place to reward clubs for investing in young players.

12. A registration form for a young player is signed by the player and parent(s) or guardian(s). From the ages of 10-14 registration lapses at the end of the season; a 15 year-old’s registration may be extended by the club to cover the following two seasons. The system will now require a club to register interest in acquiring a young player with the SPFL. The SPFL then passes that information to the player/parents. Any compensation payable is a specified amount dependent on the size of the club. Any offer of monies over and above the set amount due would be a breach of rules and a disciplinary case would be brought if evidence of any breach was provided.

13. The view of the petitioners remains that registration is a form of “contract” not appropriate for players of 15 years of age and younger and not be required until a player signs a professional contract.

14. After agreement by the SPFL membership the new arrangements came into effect from June 2014.

15. In June 2014, the Committee decided to invite the Children’s Commissioner to consider the contract/registration process and report back. The Commissioner has now reported his findings to the Committee in a report Improving Youth Football in Scotland (enclosed with papers).

16. The report contains a 13-point summary of key recommendations under five headings; taking account of children’s rights, changes to the youth registration
process, changes to the process for reimbursing training costs, independent regulation and monitoring of the registration process and individual complaints mechanism.

17. Members will wish to note that the former deputy convener Chic Brodie has recently lodged S4M-13199 seeking a Members’ Business debate on youth football’s contributions to men’s and women’s football.

For decision

18. The Committee is invited to consider the Commissioner’s submission and decide what action to take on the petition. An initial option might be to invite Scotland’s Commissioner for Children and Young People to attend a meeting of the Committee to discuss the report.
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PE1480 on Alzheimer’s and dementia awareness

Note by the Clerk

PE1480 – Lodged 22 June 2013
Petition by Amanda Kopel, on behalf of the Frank Kopel Alzheimer’s Awareness Campaign, calling on the Scottish Parliament to urge the Scottish Government to raise awareness of the daily issues suffered by people with Alzheimer’s and dementia and to ensure that free personal care is made available for all sufferers of this illness regardless of age.

Link to petition webpage

Purpose

1. This petition was last considered by the Committee on 17 March 2015. At that meeting the Committee agreed to write to the Scottish Government to seek clarity on its position on what the petition calls for. The Committee also agreed to write to COSLA. Responses have been received. The Committee is invited to agree what action to take on the petition.

Background

2. The petition raises two main issues for consideration. The first is awareness-raising of Alzheimer’s and dementia, the second is for free personal care to be extended to all those with dementia regardless of age.

Alzheimer’s disease and dementia in Scotland

3. In its latest statistical release\(^1\) for 2015, Alzheimer Scotland estimates that approximately 90,000 people have dementia in Scotland, of which 3,200 are under the age of 65. Other publications\(^2\) by Alzheimer’s Scotland note that whilst there are many different illnesses that cause dementia, Alzheimer’s disease is the most common. It estimates that 55% of those who have dementia will have Alzheimer’s disease.

Free personal care

4. Free Personal and Nursing Care (FPNC) was introduced on 1 July 2002 through the Community Care and Health (Scotland) Act 2002 (the 2002 Act) and associated regulations, and is available for everyone aged 65 and over who have been assessed by the local authority as needing it.

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\(^1\) Alzheimer Scotland (2014) Statistics: Number of people with dementia in Scotland 2015. This statistical release also provides estimate by local authority area in Scotland.

Scottish Government Action

Raising awareness of Alzheimer’s disease and dementia

5. The Scottish Government made dementia a national priority in 2007. It set a national target on improving diagnosis rates in 2008 and published an initial 3-year National Dementia Strategy in 2010. Following a period of engagement with stakeholders that began in 2012, the Scottish Government developed a second strategy, published in 2013, which sought to build upon the first.

Free Personal Care for those aged under 65

6. The most significant review of the FPNC policy undertaken since the inception of the policy was by Lord Sutherland, who reported in April 2008. No recommendations were made to extend the policy to other care groups.

Cabinet Secretary’s statement to Parliament

7. The then Cabinet Secretary for Health and Wellbeing, Alex Neil MSP, made a statement to Parliament on Care and Caring on 8 May 2014. This followed the publication of the Independent Review of NHS Continuing Healthcare on 2 May 2014.

8. The review, which was tasked with looking at the provision of continuing care, recommended that the “principles and recommendations [of the report] should apply equally to individuals of all ages”. In his statement, the Cabinet Secretary said—

“Having worked constructively with the task force’s members, we will also engage with those key stakeholders to look at personal care services that are provided to people under 65 who have complex needs and to examine whether those people are receiving effective support.”

Committee consideration

9. The Committee considered this petition for the first time on 17 September 2013 and on six occasions since. In its letter of 19 November 2013, the Scottish Government stated that it had no plans to lower the eligibility criteria for Free Personal and Nursing Care. Since then, the Scottish Government has advised that it is considering the matter. No timescales have been provided to the Committee for when the Scottish Government’s work on this issue will be completed. The Scottish Government’s most letter of 9 February 2015 states that it was still considering what further action it can take.

10. At its last meeting, the Committee agreed to write to the Cabinet Secretary seeking more clarity on the Scottish Government’s position in relation to what the petition seeks. That letter is attached and sought responses to three questions:
   - Whether the Cabinet Secretary supports the petition in principle.

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5 The Scottish Parliament (2014) The Official Report, 8 May 2014 (Col 30748)
• If the Cabinet Secretary is not in a position to commit to a view at this stage, whether she will give a timescale for when the Scottish Government’s policy in this area will be clarified.
• What are the issues under consideration?

11. The response from the Cabinet Secretary expressed sympathy for the petition, but did not give a firm view on whether it is supported and nor does it address the other two points.

12. The Committee also wrote to COSLA asking what contact it has had with the Scottish Government with regard to individuals with Alzheimer’s who are under 65 receiving free personal care. The Committee also asked when the Financial Assessment Template would be available and what its impact would be on individuals with Alzheimer’s who are under 65. The COSLA response outlines its work in producing the Financial Assessment template to set minimum rates and allowances for local authorities. The response advises that while it has been in contact with the Scottish Government on some issues, “we have not formally discussed the extension of Free Personal Care to people under 65”. The letter notes that such a proposal would need to be fully funded.

13. The petitioner has expressed her frustration at the progress in this matter. She reiterates her view that free personal care being available for those in the last 6 months’ of life would not have helped in her husband’s (and others’) case.

Action

14. The responses from the Scottish Government to the Committee’s correspondence have not given a clear position on the petition. The Committee may wish to consider asking the Cabinet Secretary to appear at a future meeting to allow the Committee to explore the issues more fully with her.
Letter from Convener to the Cabinet Secretary for Health, Wellbeing and Sport

18 March 2015

Dear Shona

**PE1480 by Amanda Kopel on Alzheimer’s and Dementia Awareness**

Calling on the Scottish Parliament to urge the Scottish Government to raise awareness of the daily issues suffered by people with Alzheimer’s and dementia and to ensure that free personal care is made available for all sufferers of this illness regardless of age.

Thank you for your letter of 9 February 2015 regarding PE1480. The Public Petitions Committee considered the petition and your letter on Tuesday 17 March 2015.

The Committee agreed that I should write to you to ask whether in principle you support the petition. If you are not in a position to commit to a view at this stage, the Committee would be grateful for a timescale for when the Scottish Government’s policy in this area will be clarified. Furthermore the Committee would welcome details of the issues that are being weighed on both sides of the argument during the Scottish Government’s consideration of this matter.

The Official Report of the meeting will be available by 24 March 2015. The Committee would be grateful for a reply to this letter by 20 April 2015.

Yours sincerely

John Pentland MSP
Convener, Public Petitions Committee
Public Petitions Committee
11th Meeting, 2015 (Session 4), Tuesday 26th May 2015

PE1505 on Awareness of Strep B in pregnancy and infants

Note by the Clerk

PE1505 – Lodged 18th February 2014
Petition by Jackie Watt calling on the Scottish Parliament to urge the Scottish Government to introduce new guidelines advising that all expectant mothers are given information about Strep B and are either screened for Strep B as a matter of routine or given information on where to go if they wish to be tested privately.

Link to petition webpage

Purpose

1. The Committee last considered this petition on 17th March 2015. At that meeting, the Committee agreed to write to the Scottish Government asking it to respond to questions from the petitioner and give a timeframe for redrafting the Ready Steady Baby! booklet. The Scottish Government response has been received. Since the Committee’s last consideration there has been a members’ business debate on Strep B testing. The Committee is, therefore, invited to decide on its next steps.

Scottish Parliament Action

2. In 31st March 2015, Margaret McDougall MSP’s motion S4M-12723 was debated in the Scottish Parliament. The motion called on the Scottish Government to provide more information on Strep B to expectant mothers and to either offer routine testing or provide information on how testing can be accessed privately. Dennis Robertson MSP, Rhoda Grant MSP, Nanette Milne MSP and Margaret McCulloch MSP spoke in support.

3. Margaret McDougall MSP argued in favour of offering routine testing in Scotland and asked whether the Scottish Government would conduct a cost benefit analysis to determine how much routine testing could save the NHS.

4. The Minister for Public Health did not respond to this request. However, she noted the UK National Screening Committee (NSC) currently advises against national screening but will review its evidence base in late 2015/early 2016. In highlighting the NSC’s position, the Minister stated: “Of course, if the evidence changes and the advice of the professionals changes, the Government will respond to that.”

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2 Official Report, 31 March 2015, pp. 73-75.
7 Official Report, 31 March 2015, p. 79.
Committee Consideration

5. At its meeting on 17th March 2015, the Committee agreed to seek the Scottish Government’s responses to questions asked by the petitioner. In its response, the Scottish Government advises that it does not hold information on:
   (i) Which NHS maternity units in Scotland regularly use the ECM test to detect group B Strep carriage in pregnant women?
   (ii) Which laboratories used by NHS trusts in Scotland offer the ECM test?
   (iii) How many ECM tests have been undertaken by each of 1) and 2) above for each of the last 5 years?

6. The Scottish Government advises that under the current guidance it would expect clinicians to test for Strep B in situations where women are at higher risk, for example where there is evidence of another infection. In terms of the risks of screening for Strep B, the Scottish Government referred to those highlighted by the UK National Screening Committee (NSC) relating to: effectiveness; reduced delivery options; antibiotic resistance; risks of antibiotic allergic reaction; long-term effects to the new born; and limited effectiveness in important groups.

Timeframe for Strep B Guidance Redrafting

7. Following consultation with the petitioner, the section in the Ready Steady Baby! booklet on Strep B has already undergone some minor revision. The Scottish Government’s most recent submission advises that in April 2015 a broader review of the booklet commenced, it expects this to take 18 months. In the lead up to the review, officials from both the Scottish Government and NHS Scotland committed to consulting the petitioner in the review process.

8. The petitioner has welcomed the NSC’s review of its evidence base and the Scottish Government’s revision of the Ready Steady Baby! booklet.

Action

9. The Committee is invited to consider what action to take on the petition. The Committee may wish to consider closing the petition on the basis that, over the next eighteen months, the Scottish Government has undertaken to consult the petitioner when redrafting the Ready Steady Baby! booklet and the NSC will review the evidence on Strep B screening.
Public Petitions Committee

11th Meeting, 2015 (Session 4), Tuesday 26 May 2015

PE1531 on removing charitable status from private schools

Note by the Clerk

PE1531 – Lodged 4 July 2014
Petition by Ashley Husband Powton calling on the Scottish Parliament to urge the Scottish Government to remove charitable status, and thus taxpayer support, from private, fee-paying schools.
Link to petition webpage

Purpose

1. The Committee last considered this petition on 17 March 2015, when it agreed to write to the Office of the Scottish Charity Regulator (OSCR). A response has been received from OSCR as well as additional submissions from the petitioner and the Scottish Council of Independent Schools (SCIS). The Committee is invited to decide what action it wishes to take on this petition.

Background

2. The petitioner argues that, as charities, independent schools have a range of benefits that are denied publicly funded schools. In particular, the petitioner mentions non-domestic rates.

The Charity Test

3. The Charities and Trustee Investment (Scotland) Act 2005 provides for a charity test, overseen by the Office of the Scottish Charities Regulator (OSCR). This requires charities have a charitable purpose and to provide a public benefit. Where that benefit is only available to a section of the public, the organisation must show:

   “…whether any condition on obtaining that benefit (including any charge or fee) is unduly restrictive. (s8(2)(b), 2005 Act)”.

4. The OSCR considers any disbenefit from the actions of an organisation when it is applying the charity test. The OSCR’s guidance on the Charity Test states that evidence of disbenefit must arise from the particular activities of the organisation in question rather than from the type of organisation to have a bearing on its decisions.

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¹ There are 16 charitable purposes listed in the 2005 Act, one of which is the advancement of education. (http://www.legislation.gov.uk/asp/2005/10/part/1/chapter/2/crossheading/the-charity-test)
5. The OSCR has reviewed a large number of independent schools. The findings are available at: [http://www.oscr.org.uk/charities/managing-your-charity/reviews-of-charitable-status/charitable-status-reviews-schools](http://www.oscr.org.uk/charities/managing-your-charity/reviews-of-charitable-status/charitable-status-reviews-schools)

**Benefits of charitable status**

6. Charities benefit from a mixture of devolved and reserved tax reliefs including:

- no corporation tax on profits made from trading in the course of delivering their charitable aims (reserved)
- 80% mandatory and 20% discretionary relief from business rates (devolved)
- Gift aid on cash donations from individuals
- Stamp duty land tax relief on acquisitions of freehold property or entering into leases. Charities will benefit from tax relief on the land and buildings transactions tax which replaces Stamp Duty in Scotland from April 2015. (Devolved from April 2015)

7. Where tax reliefs are devolved, changes accrue directly to the Scottish rather than the UK Government.

**Non-Domestic Rates**

8. Non-domestic rates are one source of funding for local authority services, including schools. There are a number of rate reliefs. The most relevant to this petition are:

- 80% mandatory relief for charities (in addition to which, local authorities have discretionary power to increase this to 100%)
- rates relief for rural schools
- discretionary rate relief of up to 100% which local authorities can grant to non-profit making organisations whether or not they are charities (s.23 Valuation and Rating (Scotland) Act 1956)


10. SPICe sought information from the Scottish Government on the amount of money spent/raised from local authority schools through NDR. Billing for business rates is carried out by local authorities and information on actual bills is not held centrally held by the Scottish Government. However, rates bills for schools can be estimated by detailed matching of rateable value data to Scottish Government school address data and applying the appropriate poundage. Using this approach, the 2013-14 bill, before reliefs, is estimated to be around £150 million for state-funded and grant-aided schools, and around £9 million for independent schools.²

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² SPICe, personal communication with the Scottish Government.
Education (Scotland) Bill

11. The Scottish Government introduced the Education (Scotland) Bill on 23 March 2015. Part 1 of the Bill seeks to promote equity of attainment for disadvantaged children. The Education and Culture Committee plans to take evidence on the Bill at Stage 1 in June.

Funding of Local Authority Schools

12. Local authorities’ income includes the Scottish Government revenue grant, income from non-domestic rates (NDR) and council tax receipts. Since 1 April 2011, Local Authorities have been able to retain what it is estimated they can collect in business rates rather than the previous policy where it was redistributed on the basis of population shares\(^3\). Therefore, although local authority schools are liable to pay non-domestic rates, they also benefit from that income. Local authorities have discretion to apply rates relief to non-profit making organisations such as schools.

Committee consideration

13. The Committee first considered the petition on 28 October 2014. It sought views from The Scottish Government, COSLA, the Educational Institute of Scotland and the Scottish Council of Independent Schools and, on 13 January 2015, took oral evidence from OSCR.

14. On 8 December 2014, OSCR published a report following the conclusion of its assessment of 52 fee-charging schools. The report set out OSCR’s conclusions review of fee-charging schools, the principles that guided its decision making, what action it took where it found non-compliance and how it would monitor such charities in future.

15. Following the 13 January 2015 meeting, the Committee wrote to the Scottish Government to ask whether it will review the 2005 Act. The Scottish Government states that the Act is regularly reviewed and it has no plans to conduct a formal more fundamental review.

16. The Committee considered the petition again on 17 March 2015 when it agreed to write to OSCR asking for details of the social good derived from the functions of independent schools. A response has been received from OSCR in which it outlines how it interprets public benefit in the context of the charities test. OSCR re-iterates that it considers the benefits of each organisation in respect of only its own activities and its charitable purpose. OSCR noted that it has published a report following the completion of review of the sector. The response contains two case studies. Members will recall that OSCR reported on every school it has assessed.

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17. The petitioner wrote to the Committee on 21 April 2015. She argues that the Charity Test should take account of the effect on society of a sector as a whole. She further argued that independent schools have a negative effect, “perpetuating and entrenching social inequality”.

Action

18. The petitioner is unhappy that independent schools are eligible to be charities. The Committee has considered two elements, firstly whether there is an undue restriction to access to the services the schools provide and secondly the benefits arising from the schools’ work. The independent OSCR has appeared before the Committee and provided two written submissions explaining its reasoning behind decisions on fees and bursaries, and that it considers each applicant only on its own merits.

19. The Committee is invited to decide what action to take on the petition. There are a number of options. The Committee may wish to:

i. Close the petition on the basis that the Committee agrees with the current approach whereby OSCR independently takes decisions on charitable status based on each individual organisation; or

ii. Write to the Scottish Government recommending changes to the 2005 Act to ensure OSCR takes account of the effects of an organisation’s sector when considering its charitable status; and/or

iii. Write to the Scottish Government suggesting that it makes changes to the 2005 Act to exclude certain independent schools from being charities; or

iv. Take any other action it deems appropriate.
PE1545 – Lodged 3rd December 2014
Petition by Ann Maxwell on behalf of Muir Maxwell Trust calling on the Scottish Parliament to urge the Scottish Government to recognise residential care as a way severely learning disabled children, young people and adults can lead happy and fulfilled lives and provide the resources to local authorities to establish residential care options for families in Scotland.

Link to petition webpage

Purpose

1. The Committee last considered this petition on 3rd March 2015. The Committee took evidence from the petitioner and agreed to write to the Scottish Government, Learning Disability Alliance Scotland (LDA Scotland), the Scottish Consortium for Learning Disability (SCLD), Scotland Excel and the Chief Social Work Adviser (CSWA). Responses have been received and the Committee is invited to consider what action it wishes to take.

Committee Consideration

Training for Social Workers

2. The CSWA’s submission notes measures are in place to ensure social workers are up-skilled and competent in their roles, such as: the Scottish Social Services Council’s (SSSC) Codes of Practice; a continuous learning framework; post registration training and learning; the approval of social work degree courses; and the Scottish Government’s ‘Social Services in Scotland – A Shared Vision and Strategy 2015/2020’. The SSSC is also reviewing the social work degree and a post-qualifying framework.

3. The petitioner is ‘exceptionally disappointed’ with the CSWA’s response, arguing it is ‘cursory’ and fails to adequately engage with the issues she raises.

4. The Permanent and Multiple Impairment Service (PAMIS) highlighted its work to address social worker training through the development of professional education models, the roll out of which is currently being supported by NHS Education for Scotland, Scottish universities and the Scottish Council for Voluntary Organisations. PAMIS also notes it has recently established contact with the petitioner with a view to working collaboratively with her.

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1 PAMIS contributed to SCLD’s submission of 07 April 2015.
5. LDA Scotland’s submission observes a shortage of specialised accommodation for adults with profound and multiple learning disabilities (PMLD) has existed for a long time. The petitioner supports this view and argues that because the Scottish Government does not have reliable data on the number of people with PMLD, it is also not able to assess the need for residential care services.

6. The Scottish Government noted its learning disability strategy, ‘Keys to Life’, aims to provide care support services that enable people to live as independently as they can in the community. In this context, it clarified that residential care is a distinct care support model for those for whom supported independent living is not an option.

7. The Scottish Government did not comment on whether it agrees that there is a shortage of specialised accommodation, but notes that any new provision of services ‘should not be large scale or attempt to replicate long stay hospital provision’. In this regard, Scotland Excel notes action is being taken forward on a procurement exercise to establish the first national framework agreement on care home services.

8. LDA Scotland also raises concerns about the lack of clear guidance in Scotland for social workers as to how to assess existing unpaid support for adults with PMLD. Although, it notes the current Carers Bill seeks to address this by ensuring a carer’s assessment takes place simultaneously with an individual’s disability assessment.

9. In terms of assessing needs generally, LDA Scotland also noted the relationship between families and social workers has been negatively affected by the Care Manager Model introduced with the Community Care Act in 1993.

10. This is also an issue of concern to the petitioner, who calls for an ‘urgent review’ of the way people with PMLD are assessed, so that improved data is collected, interpreted and used to improve the quality and availability of support services.

Data and Needs Assessment for the Severely Learning Disabled

11. LDA Scotland and SCLD share the petitioner’s view that the information held by the Scottish Government falls short of what is required.

12. According to the Scottish Government’s figures, 2000 adults with learning disabilities are accommodated in residential care. The Scottish Government feels the figure will rise in the future as a result of advances in medical treatment.

13. The Scottish Government is ‘reasonably confident’ that data collected on people with PMLD is captured accurately. However, it concedes that the ‘visibility’ of people with PMLD across a number of health and current datasets could be improved and further research is required.

14. The Scottish Government highlighted its work with SCLD to address this issue through further data collection and ‘linkage’ but felt there would be value in
undertaking some further work at the national level to investigate the needs of the learning disabled population.

15. The Scottish Government proposes to undertake a consultation and research in the first instance through the work of the Learning Disability Observatory. The Scottish Government seeks the Committee’s views on this and notes it could undertake this work with the involvement of learning disability stakeholders.

16. The petitioner is of the view that because there is no clear working definition of PMLD in social services, the assessment methodology for people with PMLD is not fit for purpose and, as such, the Scottish Government cannot gauge the true demand for residential care. In this regard, the petitioner is concerned the ‘information is not available anywhere for researchers to draw upon’.

17. In this regard, the petitioner suggests the Committee may wish to seek written evidence from Sally-Ann Cooper, Professor of Learning Disabilities, Glasgow University, noting her expertise in evidence-based policy solutions to the health inequalities people with intellectual disabilities experience.

Action

18. The Committee is invited to consider what action it wishes to take. Options include –

(i) To write to the Scottish Government seeking further information on its proposal to undertake a consultation and research in light of the petitioner’s concerns that the relevant information is not available for researchers to draw upon;

(ii) To write to the Chief Social Work Adviser seeking his views on the concerns raised in the submissions about the guidance for social workers on the assessment of people with PMLD and the impact of the Care Manager Model on this issue;

(iii) To write to Professor Sally-Ann Cooper seeking her view on the petition;

(iv) To take any other action the Committee deems appropriate.
Public Petitions Committee

11th Meeting, 2015 (Session 4), Tuesday 26 May 2015

PE1548 on National Guidance on Restraint and Seclusion

Note by the Clerk

PE1548 – Lodged 18 February 2015
Petition by Beth Morrison calling on the Scottish Parliament to urge the Scottish Government to:

(a) Introduce National Guidance on the use of restraint and seclusion in all schools; this guidance should support the principles of:
   - Last resort - where it is deemed necessary, restraint should be the minimum required to deal with the agreed risk, for the minimum amount of time
   - Appropriate supervision of the child at all times, including during “time out” or seclusion.
   - Reducing the use of solitary exclusion and limiting the time it is used for (e.g. maximum time limits)
   - No use of restraints that are cruel, humiliating, painful and unnecessary or not in line with trained techniques.
   - Accountability of teaching and support staff for their actions; this should include recording every incident leading to the use of seclusion or restraint and monitoring of this by the local authority.
   - Regular training for staff in how to avoid the use of restraint
   - Where restraint is unavoidable training in appropriate restraint techniques by British Institute of Learning Disability accredited providers and no use of restraint by untrained staff.

(b) Appoint a specific agency (either Education Scotland or possibly the Care Inspectorate) to monitor the support and care given in non-educational areas including the evaluation of the use of restraint and seclusion of children with special needs in local authority, voluntary sector or private special schools.

Link to petition webpage

Purpose

1. This is the second time the Committee has considered this petition. At the last meeting on 17 March 2015 the Committee took evidence from the petitioner, Learning Disability Alliance Scotland and the Challenging Behaviour Foundation. The Committee sought views from a number of stakeholders. These have now been received and the Committee is invited to consider what action it wishes to take on the petition.

Background

2. While the petition seeks guidance for restraint and seclusion in all schools, its particular focus is on severely learning disabled children.
Guidance

3. Current guidance on the use of restraint in residential childcare, *Holding Safely*, covers broad advice and guidance and information that can be adopted by all schools and establishments. For example, it sets out the dilemma facing staff:

“If you restrain children when there are other workable, less restrictive options available to them, children are hurt, their rights are breached, the focus remains on behavioural issues rather than the whole child and their needs, and civil or criminal proceedings could also result. However, you should be aware that if you do not restrain a young person in situations when it is needed, it can be dangerous to them and to others. Restraining a child at the right time, in the right way, for the right reasons, can be a better thing to do than failing to restrain them”.

4. Previous guidance for all schools on child protection, Safe and Well (2005) included some mention of the use of restraint, but was withdrawn in 2013 as being out of date. Local authorities should provide staff with guidelines on appropriate levels of intervention including physical restraint. Green’s education manual states that “the use of physical intervention in any situation can only be justified as a last resort” and staff that do so should be trained in appropriate intervention techniques.

5. WithScotland and the now discontinued Scottish Ministerial Working Group on Child Protection and Disability produced a ‘toolkit’ for practitioners. It is aimed at practitioners and managers in child and family and disability services. The National Child Protection Guidance (updated 2014) covers child protection issues wherever they arise. The Scottish Government also published additional guidance for child protection for disabled children. While this is not specific to any particular setting, it states:

“…inappropriate restraint, sanctions, humiliation, intimidation, verbal abuse, and having needs ignored; depending on the circumstances, may also be criminal offences, acts of gross misconduct and reportable to Police Scotland and relevant professional regulatory bodies”.

Monitoring and inspection

6. Currently, the use of restraint in residential care is monitored by individual establishments and an annual return made to the Care Inspectorate (S4W-09371). There is no similar national monitoring for non-residential schools.

7. Schools are inspected by Education Scotland. Only where a school provides residential accommodation will it also be inspected by the Care Inspectorate.

8. In inspections of mainstream and special schools, whether residential or day special, HM Inspectors consider the quality of relationships and management of behaviour in schools and units. HMI may refer schools to the guidance on *Holding Safely* as helpful advice.
Scottish Government Action

9. As stated above, the Scottish Government provides national guidance on Child Protection, guidance on the use of restraint in residential settings (which is applicable in schools and other establishments) and additionally, a statutory Code of Practice on additional support needs. The Doran review (2012) considered learning provision for children with complex additional support needs but did not include consideration of the use of physical restraint.

10. The Scottish Advisory Group on Relationships and Behaviour in Schools (SAGRABIS) is chaired by the Scottish Government and COSLA and in March 2013 the Scottish Government issued all schools with a copy of better relationships, better learning, better behaviour which identifies priority actions to further improve relationships and behaviour in schools.

Scottish Parliament Action

11. There have been parliamentary questions on the use of restraint in residential care, although these date from 2011 and 2012 (S4W-09371, S4W-09372, S4W-09374 from Neil Bibby). The issue of the use of restraint in non-residential special schools does not appear to have arisen as a matter of debate.

Committee consideration

12. The majority of the submissions are supportive of the aims of the petition.

13. The Care Inspectorate noted that it does not inspect non-residential schools. It explained what it would consider to be good practice in relation to restraint in care services and that de-escalation and restraint methods accredited by BILD are used in the care sector. It noted that legislative change and additional resources would be required should its remit be extended to cover non-residential schools.

14. Enable Scotland agreed that there is a “gap in protection for some extremely vulnerable children who attend special schools or units which are not registered care providers” and supported the extension of the remit of either Education Scotland or the Care Inspectorate to close the ‘gap’. BILD wrote to the Committee giving its view on restraint and seclusion practices. PAMIS, also agreed with the aims of the petition and suggested that the Scottish Government create a short life working group to take forward the issues raised in the petition.

15. The EIS “has no issue with” the proposal for national guidance. It stressed that it is opposed to mandatory training for any teacher in restraint methods, while accepting that some may choose to undertake such training.

16. COSLA’s initial view is that it supports the current arrangements where schools are able to use existing resources to develop their own procedures designed to meet the specific needs of the school. COSLA is also concerned that requiring BILD accredited training could be expensive and limit exploration of best-
practice. However, COSLA stated that it would bring up the issues raised in the petition at the next meeting of SAGRABIS, which it co-chairs.

17. Scotland’s Commissioner for Children and Young People stated that he hears of “too many incidents of poor practice in relation to restraint and seclusion in schools” and that he believes that there is a strong case for national guidance. He also expressed his support for BILD’s guidance on the matter. Dr Brodie Paterson, who was involved in developing *Holding Safely*, outlined his view that document is not adequate to cover the “specific needs of children with severe developmental delay and/or autism”.

18. The Scottish Government states that *Holding Safely* “covers broad advice … that can be adopted by all schools”. The Scottish Government explained that SAGRABIS’ role is to provide advice on promoting positive behaviour in schools to local and national government and other stakeholders. The Scottish Government committed to looking at the use of seclusion in the context of SAGRABIS’ work. The Scottish Government noted that the General Teaching Council for Scotland is responsible for teachers’ professional standards in Scotland. The Scottish Government also outlined other work and guidance aimed at protection for disabled children, although this work has not been specifically produced for the school setting.

19. The petitioner stated that she does not think that *Holding Safely* is appropriate for use in schools. In addition, the petitioner does not feel that SAGRABIS is the right body to take forward work in relation to restraint of severely learning disabled children. The petitioner seeks two actions from the Scottish Government:

- The creation of a short life working group to look at issues about the design, implementation and monitoring of national guidance for schools on the use of restraint and seclusion.
- Explore what is required to extend the Care Inspectorate’s remit to include non-residential schools.

**Action**

20. The Committee is invited to decide what action it wishes to take on this petition. Options include:

a. To write to the General Teaching Council for Scotland to ask whether those teaching severely learning disabled children should be required to undertake specific training on when and how to use physical intervention.

b. To refer the correspondence received on this petition to the Scottish Government and to ask it to respond to the concerns and points raised therein.
Public Petitions Committee

11th Meeting, 2015 (Session 4), Tuesday 26th May 2015

PE1551 on Mandatory reporting of child abuse

Note by the Clerk

**PE1551 – Lodged 21st January 2015**

Petition by Scott Pattinson calling on the Scottish Parliament to urge the Scottish Government to introduce legislation that makes it a criminal offence to fail to report child abuse.

[Link to petition webpage](#)

**Purpose**

1. The Committee last considered this petition at its meeting on 17th March 2015. At that meeting, the Committee took evidence from the petitioner and agreed to write to the Scottish Government, the National Society for the Prevention of Cruelty to Children (NSPCC), the Child Protection and Safeguarding Consultancy (CPSC), UNICEF, Shelter, Barnardo's Scotland, COSLA, the Care Inspectorate and Children 1st. No responses were received from the Scottish Government, COSLA, UNICEF or the CPSC. The Committee is invited to consider what action it wishes to take.

**Committee Consideration**

*Unintended Consequences and Support for a Child-Centred Approach*

2. A majority of respondents are concerned that the introduction of mandatory reporting could lead to unintended consequences, such as shifting resources and focus from the support services for young people to a system of managing reporting (see responses from Shelter Scotland; NSPCC; Barnardo’s Scotland; Children 1st). To identify any potential unintended consequences of mandatory reporting, Children 1st suggests that any changes to the existing child protection processes should be subject to a Child Rights Impact Assessment.

3. Children 1st and Dr Sarah Nelson note that children often prefer to feel in control of the reporting of abuse and the process to address it. As such, they suggest any measures to address child abuse should focus on creating “safe spaces” where children feel comfortable to report and professionals are able to deal with reports of abuse in a way that is sensitive to each child’s particular needs. In this regard, Children 1st are pioneering a new multi-disciplinary model of working with abuse victims called ‘Confidential Space’, which is being trialled in four local authorities.

*Culture Change and Leadership*

4. The petitioner is unsupportive of the calls to focus efforts on individual victims, rather than institutions and professionals. He argues this would not address
inherent institutional problems in which there are insufficient measures in place to prevent potential offenders from working with vulnerable people and to change a culture of non-reporting and inaction. He suggests introducing psychometric testing and measures to monitor incidents of reported or suspected abuse.

5. The submissions received from third sector organisations acknowledge the petitioner’s concerns that a change in institutional culture, attitudes and leadership also needs to take place. The NSPCC, the Care Inspectorate and Dr Sarah Nelson note that senior managers should bear professional responsibility by creating a supportive organisational environment to empower junior staff to report abuse without fear of reprisal. The NSPCC and Dr Sarah Nelson feel this could be achieved through training initiatives and Dr Nelson goes further to say this should be bolstered by professional sanctions.

6. Barnardo’s Scotland also notes there has been significant concern in the child protection sector about the impact of mandatory reporting on recruitment and retention in professions, particularly social work, which already faces significant challenges in this respect. In this regard, the NSPCC also feels that placing criminal sanctions on professionals is ‘wholly unrealistic’.

*Existing Statutory Safeguards and Guidance*

7. The NSPCC and Barnardo’s Scotland highlight the relevant statutory safeguards already in place. Whilst it is supportive of these safeguards in principle, the NSPCC notes ethical and policy guidance on its own has largely failed to improve disclosure and there is a case for investigating why the existing safeguards are being under used.

8. In terms of protecting vulnerable people from predatory professionals, the Care Inspectorate, which regulates all residential provision for children and young people, notes that in order to be registered and remain registered, individuals have to meet professional qualification criteria and sign up to a Code of Practice.

9. In terms of protecting professionals who report abuse, the Care Inspectorate also states that the Public Interest Disclosure Act 1998 gives statutory protection against victimisation and dismissal to workers who raise concerns about malpractice or corruption. In this regard, it notes that the Information Commissioner has advised that sharing of information in this way is unlikely to constitute a breach of the Data Protection Act.

*Calls for a Public Consultation and Review of Comparative Evidence*

10. Many respondents suggest a full public consultation, further debate and further research on the issue of mandatory reporting should be undertaken (Shelter Scotland; Barnardo’s Scotland; Children 1st; NSPCC; Dr Sarah Nelson). In this regard, Barnardo’s Scotland also suggests key questions that may inform a public consultation.
Action

11. The Committee is invited to consider what action to take on the petition. Options include –

   (i) To write to the Scottish Government requesting a response to the Committee’s letter of 18th March 2015;

   (ii) Take any other action the Committee considers appropriate.
Public Petitions Committee

11th Meeting, 2015 (Session 4), Tuesday 26 May 2015

Annual Report 2014-15

Note by the Clerk

1. Committee annual reports are due to be published during the first week of June.

2. The Conveners Group has agreed that committees adopt a standard approach for these reports, including a word-limit of 1,500 words and some standard headings.

3. The attached draft report follows the agreed format.

4. Members are invited to agree the report.
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Introduction

1. This report covers the work of the Public Petitions Committee during the Parliamentary year from 11 May 2014 to 10 May 2015.

2. During the reporting period, the Committee met on 18 occasions. No meetings were held wholly in private; on three occasions meetings were partly held in private. The Committee held an external meeting in Dumfries on 23 February 2015 as part of Parliament Day.
Public Petitions

New Petitions

3. The main purpose of the Public Petitions Committee is to consider public petitions addressed to the Parliament. During the reporting period, 47 new petitions were lodged:

- **PE1520** by Mary Laing on unrestricted freedom to build on plots of up to 1 acre;
- **PE1521** by George Eckton and Jane O'Donnell on no more Page 3 in the Scottish Sun and Scottish Parliament;
- **PE1522** by Simon Brogan on improving bulk fuel storage safety;
- **PE1523** by Jess Smith on the Tinkers' Heart of Argyll;
- **PE1524** by James Macfarlane on free Wi-Fi in Scottish public buildings;
- **PE1525** by Catherine Fraser on access to justice;
- **PE1526** by Jack Fletcher, on behalf of Sexpression:UK, on making sex and relationship education in Scotland statutory for all schools;
- **PE1527** by Margaret Mackenzie on bank deposit protection;
- **PE1528** by John Ronald on child court reform;
- **PE1529** by John Ronald on enforcement of child court orders;
- **PE1530** by Spencer Fildes, on behalf of the Scottish Secular Society on creationism in schools;
- **PE1531** by Ashley Husband Powton on charitable status for private schools;
- **PE1532** by Garry Stagg on public bearing of arms by police;
- **PE1533** by Jeff Adamson, on behalf of Scotland Against the Care Tax, on abolition of non-residential social care charges for older and disabled people;
- **PE1534** by Clare Adamson, on behalf of Planning Democracy, on equal rights of appeal in the planning system;
- **PE1535** by Alexander Fraser on teaching sustainability and banning plastic bags;
- **PE1536** by Akri Jones on definition of adultery;
• **PE1537** by Shona Brash, on behalf of the Coastal Regeneration Alliance, on the proposed energy park at Cockenzie;

• **PE1538** by Dr Richard Burton, on behalf of Accountability Scotland, on transparency in SPSO investigations;

• **PE1539** by Anne Booth on housing associations and the Freedom of Information (Scotland) Act 2002;

• **PE1540** by Douglas Philand on a permanent solution for the A83;

• **PE1541** by Chris Cromar on “Flower of Scotland” to be officially recognised as Scotland’s national anthem;

• **PE1542** by Evelyn Mundell, on behalf of Ben Mundell and Malcolm and Caroline Smith, on human rights for dairy farmers;

• **PE1544** by Olivia Robertson on increasing the maximum sentence for convictions under the Animal Health and Welfare (Scotland) Act 2006;

• **PE1545** by Ann Maxwell, on behalf of the Muir Maxwell Trust, on residential care provision for the severely learning disabled;

• **PE1546** by John Crossan on collecting Poll Tax arrears;

• **PE1547** by Ian Gordon and the Salmon and Trout Association (Scotland) on conserving Scottish wild salmon;

• **PE1548** by Beth Morrison on national guidance on restraint and seclusion in schools;

• **PE1549** by Alan Clark Young on concessionary travel passes for war veterans;

• **PE1550** by Andrew Muir, on behalf of Psychiatric Rights Scotland, on a Mental Health Act inquiry;

• **PE1551** by Scott Pattinson on mandatory reporting of child abuse;

• **PE1552** by Peter Patrick Glancy Campbell on choice of treatment for cancer patients;

• **PE1553** by Councillor Andrew S Wood on rendering industry regulations;

• **PE1554** by Jacq Kelly, on behalf of Leonard Cheshire Disability, on improving the provision of disabled-friendly housing;

• **PE1555** by Siobhan Garrahy on electric shock and vibration collars for animals;

• **PE1556** by John Mayhew, on behalf of the Scottish Campaign for National Parks and the Association for the Protection of Rural Scotland, on a national parks strategy for Scotland;
• PE1557 by David R Slater, on behalf of Save our Whitesands car parks and river views, on Scottish Government funding for Whitesands flood scheme;

• PE1558 by John Thom, on behalf of RNBCC Crayfish Committee, Ken Dee Catchment, on American Signal Crayfish;

• PE1559 by George Neilson on disabled parking on private property;

• PE1560 by John Buston on reports of handling by planning authorities;

• PE1561 by Karen Gray, on behalf of Rabbits Require Rights (Scotland), on pet rabbit welfare;

• PE1562 by Alan McLean on perverse acquittal;

• PE1563 by Doreen Goldie, on behalf of Avonbridge and Standburn Community Council, on banning sewage sludge use on land;

• PE1564 by James Treasurer, on behalf of the Friends of the Great Glen, on save Loch Ness and the Great Glen;

• PE1565 by James Dougall on whole of life sentences for violent re-offenders;

• PE1566 by Mary Hemphill and Ian Reid on a national service delivery model for warfarin patients;

• PE1567 by Donna O'Halloran on investigating unascertained deaths, suicides and fatal accidents.

Inadmissible Petitions

4. During this reporting period, no petitions were ruled inadmissible by the Committee.

Continued Petitions

5. The Committee continued its consideration of the following petitions (carried forward from previous years):

• PE1098 by Lynn Merrifield, on behalf of Kingseat Community Council, on school bus safety;

• PE1105 by Marjorie McCance, on behalf of St Margaret of Scotland Hospice, on St Margaret of Scotland Hospice;

• PE1223 by Ron Beaty on school bus safety;

• PE1319 by William Smith and Scott Robertson on improving youth football in Scotland;

• PE1351 by Chris Daly and Helen Holland on time for all to be heard
- **PE1376** by James McDonald on banning the presence of free methanol in all manufactured products in our diets;

- **PE1393** by Martin Crewe, on behalf of Barnardo’s Scotland, on tackling child sexual exploitation in Scotland.

- **PE1408** by Andrea MacArthur on the updating of Pernicious Anaemia/Vitamin B12 Deficiency understanding and treatment;

- **PE1412** by Bill McDowell on bonds of caution;

- **PE1431** by Nicholas John Riddiford, on behalf of the Fair Isle community, on a marine protected area for Fair Isle;

- **PE1446** by Dr Liza Morton, on behalf of Scottish adult congenital heart patients, on Scottish standards for the care of adult congenital heart patients;

- **PE1453** by Caroline Wilson, on behalf of the Evening Times and Kidney Research UK (Scotland), on an opt-out system of organ donation in Scotland;

- **PE1458** by Peter Cherbi on a register of interests for members of Scotland’s judiciary;

- **PE1460** by Susan Archibald, on behalf of the Scottish Parliament Cross-Party Group on Chronic Pain, on improvement of services and resources to tackle chronic pain;

- **PE1463** by Lorraine Cleaver on effective thyroid and adrenal testing, diagnosis and treatment;

- **PE1477** by Jamie Rae, on behalf of the Throat Cancer Foundation, on a gender neutral Human Papillomavirus vaccination;

- **PE1480** by Amanda Kopel, on behalf of the Frank Kopel Alzheimer’s Awareness Campaign, on Alzheimer’s and dementia awareness;

- **PE1482** by John Womersley on isolation in single room hospitals;

- **PE1488** by Pete Gregson, on behalf of Kids not Suits, on whistleblowing in local government;

- **PE1492** by Alan Kennedy on co-location of GP practices and community pharmacies;

- **PE1493** by Peter John Gordon on a Sunshine Act for Scotland;

- **PE1495** by Rab Wilson, on behalf of Accountability Scotland, on the use of “gagging clauses” in agreements with NHS staff in Scotland;

- **PE1497** by Ellie Harrison, on behalf of Say No to Tesco, on supermarket expansion on local high streets;
• **PE1500** by Stuart Housden OBE, on behalf of RSPB Scotland, on the Golden Eagle as the national bird of Scotland;

• **PE1501** by Stuart Graham on public inquiries into self-inflicted and accidental deaths following suspicious death investigations;

• **PE1503** by Mike Burns, on behalf of Average Speed Cameras on the A9 are not the Answer, on a review of A9 speed camera proposals;

• **PE1505** by Jackie Watt on awareness of Strep B in pregnancy and infants;

• **PE1506** by Alison C Tait, on behalf of the Robert Burns World Federation Ltd, on renaming Glasgow Prestwick Airport to “Robert Burns International Airport”;

• **PE1508** by Sean Clerkin on ATOS as a sponsor of the 2014 Commonwealth Games;

• **PE1509** by Lee Wright on Aberdeen to Inverness rail travel improvement;

• **PE1510** by Jody Curtis, on behalf of Emergency Service and Non-Emergency Service Call Centres, on emergency service and non-emergency service call centres;

• **PE1511** by Laura Ross on Inverness fire service control room;

• **PE1512** by Bill Chisholm on amendments to the Freedom of Information (Scotland) Act 2002;

• **PE1513** by Ron Park on equal rights for unmarried fathers;

• **PE1514** by Norman Bonney on making Time for Reflection representative of all beliefs;

• **PE1515** by Mick Napier on asylum in Scotland to Glasgow University rector Edward Snowden;

• **PE1516** by Malcolm Lamont on referenda for Orkney, Shetland and the Western Isles;

• **PE1517** by Elaine Holmes and Olive McIlroy, on behalf of the Scottish Mesh Survivors – “Hear Our Voice” campaign, on polypropylene mesh medical devices;

• **PE1518** by George M Chalmers on meaningful public consultation within the Scottish Planning System;

• **PE1519** by John F Robins, on behalf of the Save our Seals Fund, on saving Scotland’s seals.
Referred and Closed Petitions

6. The Committee referred 10 petitions to other Committees of the Parliament and 30 petitions were closed.

Evidence sessions

7. The Committee invited petitioners to speak in support of their petitions in most cases. In addition, the Committee took oral evidence from the Scottish Government and others as appropriate.

8. The Committee held a round table discussion on PE1319 on improving youth football and has since asked Scotland’s Commissioner for Children and Young People to review the registration process for young footballers. We await the Commissioner’s findings.

9. The Committee continues to consider PE1517, on polypropylene mesh medical devices. We took evidence from Alex Neil, the then Cabinet Secretary for Health and Wellbeing in June who announced that he would ask health boards to suspend transvaginal mesh procedures and the setting up of an independent Review Group. In February the Committee took evidence from the Medicines & Healthcare Products Regulatory Agency and a litigator from the USA. We await the Review Group’s report.

10. Following an evidence session with the Scottish Intercollegiate Guidelines Network (SIGN) on PE1463, which seeks changes to thyroid and adrenal testing, diagnosis and treatment, the Committee made a formal application to SIGN requesting that it considers developing a draft guideline on this topic.

Chamber debates

11. In October the Committee held a well-attended debate in the Chamber on PE1458 which calls for a register of interest for members of the judiciary. The Committee continues its consideration of this petition.
Engagement and innovation

Parliament Day – Dumfries

12. The Public Petitions Committee was central to a very successful Parliament Day in Dumfries in February 2015. In advance, the Committee held workshops and made a short video promoting and explaining the public petitions process and supported the Parliament’s Community Conference.

13. The Committee’s formal meeting was in Easterbrook Hall in Dumfries. The Committee took evidence on three petitions from local residents.

Brussels visit


15. The delegation was led by the then Convener, David Stewart MSP and included David Torrance MSP, Angus MacDonald MSP, Anne McTaggart MSP, John Wilson MSP and provided opportunities for informal discussions on how the institutions of the EU work, how citizens can affect policy at an EU level and regulation of medical devices at EU level.
Equalities

16. The Committee continues to mainstream equality consideration into its work as many petitions addressed to the Parliament arise from a perception of unequal treatment.