The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITIONS COMMITTEE

AGENDA

19th Meeting, 2019 (Session 5)

Thursday 7 November 2019

The Committee will meet at 9.15 am in the Adam Smith Room (CR5).

1. **Consideration of continued petitions:** The Committee will consider the following continued petitions—

   PE1548 on National Guidance on Restraint and Seclusion in Schools and will take evidence from Bruce Adamson, Commissioner; Nick Hobbs, Head of Advice and Investigations, Children and Young People’s Commissioner Scotland and the petitioner, Beth Morrison;
   PE1319 on Improving youth football in Scotland and will take evidence from Bruce Adamson, Commissioner and Diego Quiroz, Acting Head of Strategy, Children and Young People’s Commissioner Scotland; and
   PE1715 on Closed-Containment for Salmon Farms in Scotland.

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

   PE1753 on Moratorium on the roll out of 5G technology;
   PE1754 on Ensure any referendum on constitutional change has a two thirds majority for it to succeed; and
   PE1755 on Ban all single use plastics across Scotland.

Lynn Russell
Clerk to the Public Petitions Committee
Room T3.60 The Scottish Parliament Edinburgh
Tel: 0131 348 5254
Email: petitions@parliament.scot
The papers for this meeting are as follows—

**Agenda item 1**

PRIVATE PAPER  
PPC/S5/19/19/1 (P)

Note by the Clerk  
PPC/S5/19/19/2

Note by the Clerk  
PPC/S5/19/19/3

Note by the Clerk  
PPC/S5/19/19/4

**Agenda item 2**

Note by the Clerk  
PPC/S5/19/19/5

Note by the Clerk  
PPC/S5/19/19/6

Note by the Clerk  
PPC/S5/19/19/7
Petitioner: Beth Morrison

Petition summary:

Calling on the Scottish Parliament to urge the Scottish Government to

1. 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.

2. 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.

Webpage: parliament.scot/GettingInvolved/Petitions/PE01548

Introduction

1. This petition was last considered by the Committee at its meeting on 27 June 2019. At that meeting, the Committee agreed to invite the petitioner to respond to the Deputy First Minister’s submission of 18 June 2019, and to invite the Children’s Commissioner to give evidence at a future meeting.
2. The petitioner has since provided a written submission, which is included as an annex to this paper.

3. The Children and Young People’s Commissioner published its No Safe Place: Restraint and Seclusion in Scotland’s Schools in December 2018. In correspondence to the Committee of 21 March 2019 (see Annexe B), the Commissioner indicated that he would be happy to update the Committee on the investigation at a future meeting.

4. The Children and Young People’s Commissioner will provide evidence at today’s meeting and he will be joined by the petitioner.

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

Committee consideration


- The current policies in place are confused, conflicting or absent altogether;
- Reporting is complicated and often inadequate;
- There is an absence of monitoring, either locally, regionally or nationally;
- There is a lack of planning of individual children’s needs; and
- A lack of consultation with the children themselves, and their families

7. The report made 22 recommendations including eight for the Scottish Government as follows:

“2. The Scottish Government should publish a rights-based national policy and guidance on restraint and seclusion in schools. Children and young people should be involved at all stages of this process to inform its development. The policy and guidance should be accompanied by promotion and awareness raising.

4. The Scottish Government should analyse and publish this data as part of its official statistics.

7. The Scottish Government should ensure that national policy and guidance is clearly set within a human rights framework, including specific reference to the relevant articles of the European Convention on Human Rights, the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities, and other relevant international human rights instruments.

8. The Scottish Government should ensure that the practical impact of respect for rights on practice is explained through the use of examples and case studies in national policy and guidance.
9. The Scottish Government should develop clear rights-based definitions of both restraint and seclusion as part of national policy and guidance.

10. The Scottish Government should ensure that the national policy and guidance sets out clear criteria on the use of restraint and seclusion, linked to the rights framework to ensure that children’s rights are not breached, using examples to help staff understand appropriate and lawful use of these techniques.

11. The Scottish Government should ensure that the national policy and guidance on the use of seclusion in schools draws a clear, well understood and well-communicated distinction between the use of a supervised, separate space as a planned response to a child’s individual needs and placing a child in a room on their own where they are unable to indicate and receive an immediate response to discomfort or distress.

13. Scottish Government and local authorities should ensure that all policies, whether at national or local level, make clear that restraint and seclusion are measures of last resort.”

8. In his final response to the Commissioner’s report, the Deputy First Minister challenged what he considers is the implication of the Commissioner’s report title ‘No safe place’ that schools were unsafe and reiterated that “national policy on the use of physical intervention and seclusion indicates that their use should be a measure of last resort”.

9. The Deputy First Minister stated that the Scottish Government has been engaging with all local authorities regarding the current guidance, Included, Engaged and Involved Part 2. He undertook “to pull together a short life working group to review, refresh and develop strengthened guidance on physical intervention and seclusion.” The Deputy First Minister indicated that a number of the Commissioner’s recommendations should be addressed by strengthening the guidance. He also invited the Commissioner to join that working group.

Petitioner submission

10. In her submission of 29 August 2019, the petitioner states that she has collated evidence from hundreds of families, across every council area, regarding the use of restraint and seclusion in schools.

11. The petitioner goes on to highlight concerns regarding the membership of the Scottish Government’s short-life working group as, she believes, it does not draw on a wide enough range of perspectives.

"The children I represent are the most vulnerable in Scotland. They use behaviour to communicate distress because behaviour is all they have. All have limited communication skills, and many are completely non-verbal. ALL have disabilities, and very complex needs at that.
On the short life working group, there are many representatives from Education, COSLA and local councils but there is no representation from experts in learning disabilities, no input from the Mental Welfare Commission, no one from the Equality and Human Rights Commission and no one from the ASN Tribunal service. Yet again, as I said back in 2015 and have continued to say since, the right people with the right skills and the right understanding are not being consulted here.”

12. The petitioner states that the Scottish Government appears to be focussed on promoting the policy guidance “Better Relationships,” however she considers this guidance to be inappropriate for the children that she represents as it does not take account that you

“…cannot have a relationship when there is an imbalance of power because one person does not understand how the other one communicates. All of the children I represent have severe communication difficulties and complex needs so those relationships will be fractured from the very beginning.”

Included, Engaged and Involved Part 2

13. In his written submission to the Committee in April 2018, the Deputy First Minister and Cabinet Secretary for Education and Skills stated—

“I am very clear that restraint and seclusion are part of a series of approaches which begins with promoting positive behaviours and relationships. I believe that the approach taken within the guidance, Included, Engaged and Involved Part 2, properly places restraint and seclusion within this broader context and is therefore the correct one”.

14. The petitioner states that when she supports parents in meetings in schools, she has found staff that are unaware of the Scottish Government guidance, Included, engaged and involved part 2 [IEI2], which refreshed the national policy on school exclusions. She has also found staff who are dismissive of the guidance.

15. The petitioner rejects the Scottish Government’s approach and states—

“I now firmly believe that we have no choice but to call for a robust legal framework that is statutory. Guidance within IEI2 is just not good enough.”

Action

16. The Committee is invited to consider what action it wishes to take on the petition. Options include—

• To consider the evidence heard at a future meeting;

• To write to the Deputy First Minister regarding the issues raised by the petitioner;

• To invite the Deputy First Minister to give evidence at a future meeting;
• To take any other action the Committee considers appropriate.

Clerk to the Committee

Annexe A

The following submissions are circulated in connection with consideration of the petition at this meeting—

• **PE1548/QQ: Deputy First Minister and Cabinet Secretary for Education and Skills submission of 18 June 2019 (973KB pdf)**
• **PE1548/RR: Petitioner submission of 29 August 2019 (93KB pdf)**

All written submissions received on the petition can be viewed on the petition webpage.

Annexe B - Correspondence from the Children and Young People’s Commissioner Scotland to the Public Petitions Committee of 21 March 2019

Dear Convener,

**Supporting the work of the Petition Committee**

After taking office as Children and Young People’s Commissioner in May 2017 I dedicated my first months in office to reviewing and revising the office’s strategic plan. In doing so we consulted extensively with children and young people across Scotland. The priority issues identified through that process related to poverty, mental health, justice and education. These are demanding areas, which regularly come before the Petitions Committee. The revised strategic plan was laid before the Scottish Parliament in March 2018, and I would welcome the opportunity to speak to the Committee about the wide range of work the office undertakes to promote and safeguard the rights of children and young people across Scotland.

In planning the office’s work, we seek to use the limited public resources available to most effectively deliver the mandate to promote and safeguard the rights of children and young people. We focus on where we can have the most impact – such as using investigation powers to look into the use of restraint and seclusion in schools, an issue that has been raised regularly with the Committee. Our *No Safe Place* report was in part prompted by the Committee’s discussions around Petition PE 1548, which we note is still open and we would be happy to update the Committee on the investigation at a future meeting.

We recently provided evidence into your inquiry into Mental Health Support for Young People, which is a priority area and would welcome the chance for further discussion.
about how the office can further support the Committee in its important role as a human rights guarantor.

As you will appreciate, the office cannot undertake detailed work on every children’s rights issue. We note the recent article in the Daily Record regarding the Committee’s consideration of youth football. This is an issue on which we have provided evidence to the Committee on several occasions over the last ten years. The office undertook research with children and young people involved in youth football in 2015 and provided evidence on this issue to both the Petitions Committee and the Health and Sport Committee in early 2017.

We note that the former Commissioner took a particular interest in petition 1319 but had not planned any further work relating to that petition. In view of that and as the matter was before Parliament, we determined that we would focus on the human rights issues raised by children through our consultation. In December we wrote to the petitioners to communicate this to them.

Unrelated to petition 1319 the office has taken a clear interest in relation to child protection in football. As you will be aware, the office contributed evidence to the Health and Sport Committee’s inquiry into this in 2017. Significant work has been undertaken on this issue, including the independent review of sexual abuse in football, and the work by Children 1st. Safeguarding in Sport, and others. We keep close contact with the civil society organisations that are undertaking this important work. We will continue to engage when necessary to ensure that duty bearers are held to account in order to ensure children are protected.

Next week the report of our Young Human Rights Defenders Action Group will be laid before Parliament. This powerful report makes recommendations about how Scotland can better support children and young people to be human rights defenders. We note some of the recent examples of children using the petitions process for this purpose and would welcome further discussion about the role the Petitions Committee can play in supporting children as human rights defenders.

Yours sincerely,

Bruce Adamson
Children and Young People’s Commissioner Scotland
Public Petitions Committee
19th Meeting, 2019 (Session 5)
Thursday 7 November 2019

PE1319: Improving youth football in Scotland

**Petitioner**  William Smith and Scott Robertson

**Petition summary**  Calling on the Scottish Parliament to urge the Scottish Government to investigate—

- the legal status and appropriateness of professional SFA clubs entering into contracts with children under 16 years
- audit process and accountability of all public funds distributed by the Scottish Football Association to its member clubs
- social, educational and psychological affects and legality of SFA member clubs prohibiting such children from participating in extra curricular activity
- appropriateness of ‘compensation’ payments between SFA member clubs for the transfer of young players under the age of 16 years
- increase the educational target from 2 hours curricular physical activity to four hours per week
- develop a long-term plan to provide quality artificial surfaces for training and playing football at all ages across all regions.

**Webpage**  parliament.scot/GettingInvolved/Petitions/PE1319

**Introduction**

1. This is a continued petition, last considered by the Committee on 6 June 2019. At that meeting, the Committee considered a draft report on the petition in private.

2. During the meeting, the Committee also considered correspondence from the Children and Young People Commissioner Scotland of 21 March 2019 (see Annexe) and agreed to invite the Commissioner to give evidence at a future meeting.

3. The Children and Young People’s Commissioner will provide evidence at today’s meeting and the Committee is invited to consider what action it wishes to take.
Committee consideration

4. PE1319 has been under consideration by the Public Petitions Committee since 2010, with the issues raised being pursued by the Session 5 Committee and its predecessors in Sessions 3 and 4.

5. In the course of the petition, the Committee has considered a substantial amount of oral and written evidence from a range of stakeholders both in and outside of Scottish football. This includes receiving evidence from the petitioners, the former Minister for Public Health and Sport, the Scottish Professional Football League, the Scottish Football Association and the Scottish Youth Football Association.

6. The Committee have also taken oral evidence from the former Children and Young People’s Commissioner Scotland, Tam Baillie on three occasions; in January 2011, June 2015 and February 2017. The former Commissioner undertook a substantial amount of work to consider the regulation of youth football from a rights perspective.

7. A number of concerns were raised by the former Commissioner during the lifespan of this petition including—

- **Compensation schemes** - The former Commissioner previously highlighted concerns about the way in which compensation schemes are administered, stating—

  “As soon as a child signs with a club, there is a price on their head that is the cost of the compensation to release that child to play for another club. That cost mounts and, to me, it gets in the way of decisions about the best interests of the children”.

- **Registration for players aged 15** – The current system of registration provides for registration periods of different durations depending on the age of the child or young person. For players aged from 10 to 14, the duration of registration is a year. For players aged 15, the duration of registration can be for a total of three years based on a rolling annual registration that can be unilaterally extended by a club.

  The former Commissioner was not supportive of this registration system and previously told the Committee—

  “I do not know of any other situation in which you can hold a child aged 15 against their will for three years. It beggars belief”.

- **Balance of power** – In oral evidence to the Committee in February 2017, the former Commissioner stated that “all the power is with the clubs and very little is with the children and young people”. The Commissioner went on to state
that there is “a fear factor for children being able to reasonably raise complaints, especially when the odds are stacked so heavily in favour of the clubs”.

8. On 24 May 2017, Bruce Adamson was appointed as the new Children and Young People’s Commissioner Scotland. On 21 March 2019, the Committee received correspondence from Mr Adamson (see Annexe) indicating that he did not intend to continue the office’s work and support on the petition.

9. In his correspondence, the Commissioner also stated that he “welcomes the opportunity to speak to the Committee about the wide range of work the office undertakes to promote and safeguard the rights of children and young people across Scotland”.

Action

10. The Committee is invited to consider what action it wishes to take on the petition. Options include—

   • To reflect on the evidence heard at a future meeting.
   • To take any other action the Committee considers appropriate.

Clerk to the Committee

Annexe A

The following submissions have been received from the former Children and Young People’s Commissioner Scotland during Session 5—

• PE1319/JJJ: Children and Young People’s Commissioner Scotland letter of 26 July 2016 (74KB pdf)

• PE1319/RRR: Tam Baillie, Former Children and Young People Commissioner Scotland submission of 5 June 2017 (93KB pdf)

All written submissions received on the petition can be viewed on the petition webpage.
Annexe B - Correspondence from the Children and Young People’s Commissioner Scotland to the Public Petitions Committee of 21 March 2019

Dear Convener,

Supporting the work of the Petition Committee

After taking office as Children and Young People’s Commissioner in May 2017 I dedicated my first months in office to reviewing and revising the office’s strategic plan. In doing so we consulted extensively with children and young people across Scotland. The priority issues identified through that process related to poverty, mental health, justice and education. These are demanding areas, which regularly come before the Petitions Committee. The revised strategic plan was laid before the Scottish Parliament in March 2018, and I would welcome the opportunity to speak to the Committee about the wide range of work the office undertakes to promote and safeguard the rights of children and young people across Scotland.

In planning the office’s work, we seek to use the limited public resources available to most effectively deliver the mandate to promote and safeguard the rights of children and young people. We focus on where we can have the most impact – such as using investigation powers to look into the use of restraint and seclusion in schools, an issue that has been raised regularly with the Committee. Our No Safe Place report was in part prompted by the Committee’s discussions around Petition PE 1548, which we note is still open and we would be happy to update the Committee on the investigation at a future meeting.

We recently provided evidence into your inquiry into Mental Health Support for Young People, which is a priority area and would welcome the chance for further discussion about how the office can further support the Committee in its important role as a human rights guarantor.

As you will appreciate, the office cannot undertake detailed work on every children’s rights issue. We note the recent article in the Daily Record regarding the Committee’s consideration of youth football. This is an issue on which we have provided evidence to the Committee on several occasions over the last ten years. The office undertook research with children and young people involved in youth football in 2015 and provided evidence on this issue to both the Petitions Committee and the Health and Sport Committee in early 2017.

We note that the former Commissioner took a particular interest in petition 1319 but had not planned any further work relating to that petition. In view of that and as the matter was before Parliament, we determined that we would focus on the human rights issues raised by children through our consultation. In December we wrote to the petitioners to communicate this to them.

Unrelated to petition 1319 the office has taken a clear interest in relation to child protection in football. As you will be aware, the office contributed evidence to the Health and Sport Committee’s inquiry into this in 2017. Significant work has been
undertaken on this issue, including the independent review of sexual abuse in football, and the work by Children 1st. Safeguarding in Sport, and others. We keep close contact with the civil society organisations that are undertaking this important work. We will continue to engage when necessary to ensure that duty bearers are held to account in order to ensure children are protected.

Next week the report of our Young Human Rights Defenders Action Group will be laid before Parliament. This powerful report makes recommendations about how Scotland can better support children and young people to be human rights defenders. We note some of the recent examples of children using the petitions process for this purpose and would welcome further discussion about the role the Petitions Committee can play in supporting children as human rights defenders.

Yours sincerely,

Bruce Adamson
Children and Young People’s Commissioner Scotland
Public Petitions Committee

19th Meeting, 2019 (Session 5)
Thursday 7 November 2019

PE1715: Closed-Containment for Salmon Farms in Scotland

Note by the Clerk

Petitioner
Mark Carter on behalf of Marine Concern

Petition summary
Calling on the Scottish Parliament to urge the Scottish Government to ensure that the salmon farming industry solely utilises a closed-containment method with full water filtering in Scottish waters.

Webpage
parliament.scot/GettingInvolved/Petitions/PE01715

Introduction

1. This is a continued petition, last considered on 7 February 2019. At that meeting the Committee agreed to write to Fisheries Management Scotland, MOWI/Marine Harvest, Salmon and Trout Conservation Scotland, Scottish Salmon Producers’ Organisation and the Scottish Government.

2. The Committee has received submissions from Fisheries Management Scotland, Salmon and Trout Conservation Scotland, Scottish Salmon Producers’ Organisation and the Scottish Government.

3. The Committee is invited to consider what action it wishes to take on the petition.

Committee Consideration

Issues with current ‘open-cage’ practices

4. In its submission, Fisheries Management Scotland highlight issues with current open-cage practices including:

   • Escapes, which can pose a threat to wild salmon stocks with regard to available food sources or possible introgression, the hybridisation of wild and farmed salmon;

   • Sea lice, parasites which feed on the salmon, and can be harmful to juvenile salmon; and

   • The potential for disease transfer between farmed to wild fish

5. With regard to escapes, Fisheries Management Scotland states—

   “Although escapees display high mortality when in the wild, they have been recorded in rivers throughout the species’ native range, such as England, Scotland, North America, and Norway. Escapees have also been observed in
rivers located in countries where salmon farming is not practiced. There are therefore global concerns regarding the genetic integrity of wild populations, and it is notable that in Norway, escapes of farmed fish are considered to be the greatest threat to wild salmon.”

6. Fisheries Management Scotland and the Salmon and Trout Conservation Scotland both site goals of the North Atlantic Salmon Conservation Organisation (NASCO), of which Scotland is a member, which states—

“100% farmed fish to be retained in all production facilities”; and, 

“100% of farms to have effective sea lice management such that there is no increase in sea lice loads or lice-induced mortality of wild salmonids attributable to the farms.”

7. In its submission, Fisheries Management Scotland highlights that at a recent NASCO symposium in Tromsø, Norway “it was recommended that compliance to these agreed international goals should be strengthened.”

8. The Scottish Salmon Producers’ Organisation states that “Sea lice levels are down, to their lowest levels in six years, according to figures published monthly by the sector.” The organisation also said that escapes were “at a historically low level”.

9. In its submission, the Salmon and Trout Conservation Scotland states that regulation needs to be strengthened regarding open cage production. The submission quotes Scottish Environment Link who said that “there must be no new marine fish farms using current ‘open cage’ practices or any expansion of existing fish farm sites, including any increases in farmed fish biomass at existing sites” unless failings in the regulation are understood and resolved.

10. Salmon and Trout Conservation Scotland highlight that this position echos the Rural Economy and Connectivity and Environment, Climate Change and Land Reform Committees who, it states, in effect “called strongly for a pause in expansion while the many issues are addressed – in effect, a moratorium.”

11. Fisheries Management Scotland states that open cage production "is a farming method that should be phased out over time, unless or until the industry can demonstrate the sustainability of smolt production in freshwater cages".

12. In its submission, Scottish Salmon Producers’ Organisation SPO states “Open net pen production is currently the most suitable method for producing healthy salmon because the fish are grown in as near to natural conditions as possible.”

13. Salmon and Trout Conservation Scotland states, however, that the Scottish Government has rejected calls for a moratorium and, it suggests that “[s]ince
the ECCLR Committee reported in March 2018 there has been a rash of fish farm expansion plans submitted and approved."

14. In its submission, Fisheries Management Scotland accepts that current technology cannot produce smolts. It points out, however, that there are a range of different technologies currently being trialled across the world, "on land and in floating tanks in the sea" although not in Scotland.

15. Fisheries Management Scotland is calling for the Scottish Government to introduce incentives "in order to facilitate the development of such technology in Scotland." It suggests that closed or semi-closed production systems should be prioritised.

Issues with ‘closed containment’

16. Scottish Salmon Producers Organisation, in its submission, highlights several issues in regard to closed containment production including:

- The current technology is not commercially viable;
- There is a lack of information on what impact closed containment production would have on the fish – both in terms of necessary fish stock density and regarding the impact of the significant mechanisation required;
- The stability of closed containment pens in deeper water
- The environmental impact of the energy required to maintain the necessary water cleanliness, water flow and the carbon footprint of the infrastructure of the pens.
- The significant infrastructure required for closed containment production on land would demand high energy use.
- Should closed containment production on land become commercially viable, there would be a risk to production in Scotland as SSPO believe that salmon farms would be sited closest to markets and transport hubs, and away from Scotland.

Scottish Government

17. In its submission, the Scottish Government states that it “supports improvements to husbandry and production methods which reduce impact of risk and support sustainability."

18. It highlights that as a production method, close containment is one option that “may solve certain challenges but can introduce its own unique set of potential issues.”

\(^1\) A smolt is a juvenile salmon which is getting ready to go out to sea.
19. With regard to innovation the, Scottish Government highlights that the Scottish Aquaculture Innovation Centre (SAIC) is supporting significant work on potential innovation in the sector including closed containment. It also highlights that there is currently no evidence of commercial viability of wholly closed containment production methods.

20. The Scottish Government said that it, and its enterprise agencies, “is actively engaged with SAIC as it looks to identify how innovation can be exploited by the sector”.

Action

21. The Committee is invited to consider what action it wishes to take. Options include—

- To close the petition under Rule 15.7 of Standing Orders on the basis that the Scottish Government have confirmed that there is currently no evidence of commercial viability of wholly closed containment production methods.

- To refer the petition to the Rural Economy and Connectivity Committee under Rule 15.6.2 of Standing Orders.

- To take any other action the Committee considers appropriate.

Clerk to the Committee

Annexe

The following submissions are circulated in connection with consideration of the petition at this meeting—

- PE1715/A: Scottish Government submission of 2 August 2019 (66KB pdf)
- PE1715/B: Salmon & Trout Conservation Scotland submission of 5 August 2019 (173KB pdf)
- PE1715/C: Fisheries Management Scotland submission of 9 August 2019 (149KB pdf)
- PE1715/D: Scottish Salmon Producers’ Organisation submission of 20 August 2019 (146KB pdf)

All written submissions received on the petition can be viewed on the petition webpage.
Public Petitions Committee

19th Meeting, 2019 (Session 5)

Thursday 7 November 2019

PE1753: Moratorium on the roll out of 5G technology

Note by the Clerk

Petitioner  William Mercer

Petition summary  Calling on the Scottish Parliament to urge the Scottish Government to support the recommendation for a moratorium on the roll-out of the fifth generation, 5G telecommunications technology until potential hazards for human health and the environment have been independently reviewed

Webpage  parliament.scot/GettingInvolved/Petitions/PE1753

Introduction

1. This is a new petition that collected 40 signatures and 7 comments in support.

Background

2. This petition seeks a moratorium on the roll out of 5G and asks the Scottish Government to engage with the World Health Organisation (WHO) to challenge their safety guidelines. The petition cites two articles; ‘Peer Review of the Draft NTP Technical Reports on Cell Phone Radiofrequency Radiation’ and ‘Scientist Appeal for 5G Moratorium’.

5G in Scotland

3. 5G mobile networks have already launched in some cities in the UK. EE launched its network in Edinburgh on 30 May 2019, O2 expect to launch their 5G network in the city in October 2019, and Three plan to follow before the end of the year. Vodafone have launched their 5G network in Glasgow, with other providers planning to follow by Summer 2020. Note – these early deployments only cover part of the cities.

4. 5G RuralFirst are currently trialling 5G technology in the Orkney Islands (as well as other rural sites across the UK.)

Public Health in the UK

5. In the UK, Public Health England’s Centre for Radiation, Chemical and Environmental Hazards (CRCE) have issued advice that exposure to radio waves should be within the guidelines issued by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).
6. ICNIRP is an independent organisation that provides scientific advice and guidance on the health and environmental effects of non-ionizing radiation. It is formally recognised as an official collaborating non-governmental organisation by the WHO and the International Labour Organisation and is also consulted by the European Commission. ICNIRP produce guidelines covering the safe operation of mobile phone networks.

7. Public Health England stated that:

“A Considerable amount of research has been carried out on radio waves and we anticipate no negative effects on public health. 5G is the latest evolution in mobile communications technology and currently in its development stages. 5G will have a higher data capacity than current systems in order to transmit a larger volume of data.

Some 5G technology will use similar frequencies to existing communication systems. Other 5G technology will work at higher frequencies, where the main change would be less penetration of radio waves through materials, for example, walls.

While a small increase in overall exposure to radio waves is possible when 5G is added to the existing network, the overall exposure is expected to remain low and well within the guidelines from ICNIRP.”

Scottish Parliament action

8. PQ (S5W-22710 Mark Ruskell) (Lodged 17 April 2019): To ask the Scottish Government what involvement it has in the establishment of regulatory standards and processes in relation to the rollout of 5G technology.


“Legislative and regulatory powers regarding telecommunications are currently reserved to the UK Government under the policy reservation provisions of the Scotland Act (1998).

As such, the Scottish Government has no direct locus in the establishment of regulatory standards and processes in relation to the rollout of 5G technology. More generally, the day to day regulation of telecommunications is the responsibility of the UK telecommunications regulator, Ofcom.

Scottish Ministers and our officials do have regular engagement with Ofcom and seek to try to positively influence their policies, and those of UK Ministers, to try to ensure they work in the interests of Scottish consumers.”

Scottish Government action

10. On 26 August 2019, the Scottish Government published 5G: strategy for Scotland, which sets out what actions the Scottish Government and others have already taken in supporting 5G technology in Scotland, and contains new
commitments while the technology is being rolled out. However, as the regulatory powers relating to telecommunications are reserved, this strategy does not touch on the standards of the technology or any health concerns about its implementation.

11. Alongside the strategy, the Scottish Government published ‘5G and public health: position statement’, which sets out the current advice that the Scottish Government has on 5G in relation to public health.

UK Government action

12. The UK Government responded to a similar petition on the 19 March 2019, noting that:

“Exposure to radio waves has been carefully researched and reviewed. The overall weight of evidence does not suggest devices producing exposures within current guidelines pose a risk to public health.”

12. The report noted that Public Health England’s advice has been that the Government adopt the guidelines of ICNIRP. This response also directly addresses the NTP report cited by the petitioner, noting that there were two reasons why the findings were not applicable to humans:

i. exposure levels and durations were greater than people may receive from mobile phones, and

ii. the rats and mice in the sample received exposure to their whole bodies, while a person using a phone would experience only localised exposure in their pocket or next to their head.

Action

13. The Committee is invited to consider what action it wishes to take on this petition. Options include—

- To close the petition under Standing Order Rule 15.7 on the basis that the International Commission on Non-Ionizing Radiation Protection concludes that exposure to electromagnetic fields below the recommended threshold is unlikely to be associated with adverse health effects and is a conclusion supported by both Public Health England and the Chief Medical Officer for Scotland.

- To write to stakeholders such as the Scottish Government, the International Commission on Non-Ionizing Radiation Protection, Public Health England and Ofcom.

- To take any other action members consider appropriate.

SPICe/Clerk to the Committee
Public Petitions Committee

19th Meeting, 2019 (Session 5)

Thursday 7 November 2019

PE1754: Ensure any referendum on constitutional change has a two thirds majority for it to succeed

Note by the Clerk

Petitioner: Mark Openshaw

Petition summary: Calling on the Scottish Parliament to urge the Scottish Government to ensure that any referendum advocating constitutional change should have at least a two thirds majority for it to succeed.

Webpage: parliament.scot/GettingInvolved/Petitions/PE1754

Introduction

1. This is a new petition that collected 2,454 signatures and 0 comments in support.

Background

2. The Referendums (Scotland) Bill was introduced in Parliament on 28 May 2019. The Bill provides a framework for the holding of Scottish referendums. The Bill sets out a legislative framework for the holding of Scottish referendums by providing for:

   • the franchise and arrangements for voting;
   • the conduct of polls and counts;
   • campaign rules.

3. The Referendums (Scotland) Bill also provides for Ministers, by regulation (i.e. through subordinate legislation) subject to the affirmative procedure to hold a referendum.

4. The petition calls for any referendum on a constitutional issue to be subject to a threshold. A threshold in a referendum is where the result is not based on a majority of votes. Instead, a bar is set and must be reached in order for the referendum to be passed.

5. The petition suggests a supermajority threshold for referendums on constitutional issues, where two thirds of the votes cast would need to be in favour of change.

6. The two most recent referendums in the UK, the 2016 referendum on the UK’s membership of the EU and the 2014 referendum on Scottish independence, were subject to the default threshold (50% plus one) i.e. a straight majority.
7. Electoral thresholds where a specified percentage of the eligible electorate is required to vote for the change have been used in the UK. The Scotland Act 1978, for example, required that at least 40% of the total electorate vote Yes in a referendum in order for their provisions to be implemented. As the report of the Independent Commission on Referendums explains, the result in Scotland was that a majority (51.6%) of voters voted Yes, but because turnout was 63.6%, it meant that only 32.8% of the electorate had voted for devolution.

8. Devolution was therefore rejected in 1979 and the Scotland Act 1978 was repealed. The result caused controversy in Scotland and the “40%” rule was seen as unfair.

9. The Constitution Society argued in written evidence to the Independent Commission on Referendums that the UK’s ‘strong majoritarian tradition’ meant that referendum thresholds would be unlikely to command public support. The Independent Commission on Referendums noted in its report that “Though supermajority thresholds are used in legislatures in many countries for constitutional amendments…they are strikingly rare in referendums”. The Commission’s report recommended against the use of supermajority or thresholds in referendums in the UK.

10. The Venice Commission, which is an advisory body to the Council of Europe and made up of constitutional experts, issued its most recent Code of Good Practice on Referendums in October 2018. It states:  

   “It is advisable not to provide for:
   a. a turn-out quorum (threshold, minimum percentage), because it assimilates voters who abstain to those who vote no;
   b. an approval quorum (approval by a minimum percentage of registered voters), since it risks involving a difficult political situation if the draft is adopted by a simple majority lower than the necessary threshold.”

Scottish Government action

11. The Referendums (Scotland) Bill was introduced by the Scottish Government. The Bill does not provide for a supermajority or any threshold in referendums.

Scottish Parliament action

12. The Scotland Act 2016 provides for supermajorities (two thirds of MSPs) for some legislation. This includes, for example, legislation on the Scottish Parliament franchise and the electoral system used to return MSPs.

Finance and Constitution Committee - Consideration of the Referendums (Scotland) Bill

13. During a meeting of the Finance and Constitution Committee on 4th September, Alexander Burnett MSP, asked a question about thresholds and referenced the petition. Replying to the question, Dr Alan Renwick, said he thought a supermajority requirement was ‘a very bad idea’ whilst Professor Justin Fisher said:
"I see a case for a supermajority for fundamental constitutional change. However, I think that the dual referendum proposal... is a better safeguard and is more defensible. Of course, if people know the rules beforehand, a supermajority is, arguably, defensible. However, on balance, the dual process is a better one."

14. The Finance and Constitution Committee published its *Stage 1 Report on the Referendums (Scotland) Bill* on 31 October 2019. The report highlights that with regard to the action called for in the petition, Dr Renwick is of the view that it “would be a very bad idea” and that very “few countries have supermajority requirements for referendums.”

15. The report goes on as follows—

“Our Adviser cites a number of reports\(^1\) which address the issue of thresholds. A House of Lords report into referendums in 2010 suggested that there should be a general presumption against electorate or turnout thresholds as a consequence of incomplete electoral registers although recognising that under exceptional circumstances they might be deemed appropriate. The Independent Commission on Referendums indicated that the use of turnout and electorate thresholds was ‘not recommended’ in its recent report. Both also declined to support supermajorities in referendums because of the rarity of their use in UK constitutional politics. The Venice Commission also recommend against both turnout and electorate thresholds”.

16. The report concludes that the Finance and Constitution Committee does not support the use of thresholds other than a simple majority.

**Action**

17. The Committee is invited to consider what action it wishes to take on this petition. Options include—

- To close the petition under Standing Orders Rule 15.7 on the basis that the Finance and Constitution Committee have recently considered the action called for in the petition and have concluded that it does not support the use of thresholds other than a simple majority.

- To take any other action members consider appropriate.

---

Public Petitions Committee

19th Meeting, 2019 (Session 5)

Thursday 7 November 2019

PE1755: Ban all single use plastics across Scotland

Note by the Clerk

Petitioner
Stephen Henry

Petition summary
Calling on the Scottish Parliament to urge the Scottish Government to ban single use plastics across Scotland.

Webpage
parliament.scot/GettingInvolved/Petitions/PE1755

Introduction
1. This is a new petition that collected 1,132 signatures and 59 comments in support.

Background
2. The petitioner wants the Scottish Government to ban all single-use plastics, with an initial focus on food and drink-related items, including single-use plastic bags, cups, cutlery, straws and give-away toys. The petitioner raises concerns about the volume of plastic being discarded in waterways, with associated impacts for wildlife and potentially human health. The petitioner also highlights action being taken in other countries e.g. France announced a ban on plastic cups, plates and cutlery from 2020.

Impacts of plastics in the environment
3. Plastics are pervasive in the environment, and microplastics (plastic fragments) have been detected in marine and freshwater environments, food, air and drinking water. A 2019 study by the World Health Organization found that microplastics enter freshwater environments in a number of ways, including from degraded plastic waste. It found that microplastics in drinking-water appear to pose a low concern for human health but noted there is limited available evidence. A small pilot study in 2018 found microplastics in the human stool of all international participants (including one from the UK), and said the effects of microplastics on health requires further study.

4. A 2015 study by the University of Portsmouth assessed the impact of exposure to microplastics in fish, and states that plastics are rapidly accumulating in landfill and natural habitats, especially the marine environment. Whilst the full impacts of this are not yet understood, marine plastic wastes are estimated to cause the deaths of hundreds of thousands of aquatic vertebrates each year – partly from entanglement or physical damage caused by plastic items, but there are also concerns that ingested plastic may block the digestive system and cause
starvation. Experiments conducted demonstrated that fish take up microplastics from water as well as via their diet. Although ingestion does not appear to adversely impact the survival or health of adult fish, there is evidence to support negative changes in larval fish. There was also evidence that microplastics can transport persistent organic pollutants into the food chain. The study called for longer-term research to more fully evaluate impacts.

5. A review of global evidence on marine plastic pollution published in May 2019 found a direct relationship between the proliferation of marine plastic and negative impacts across most ecological subjects studied (including fish, birds and marine mammals). It found clear costs to the economy and wellbeing, particularly relating to the provision of fisheries and aquaculture, recreation, and heritage values. The authors recommend a systematic global research agenda for marine plastics, especially relating to the most vulnerable ecosystem services, and on potential contamination of the human food chain.

EU Single Use Plastics Directive and Circular Economy Package

6. The European Strategy for Plastics in a Circular Economy (adopted in 2018) includes an objective to ensure that by 2030 all plastic packaging placed on the EU market is re-usable or easily recycled. The EU Single Use Plastics Directive was adopted in May 2019 and increases regulation of a number of target product types – including banning the use of single-use plastic plates, cutlery, straws, balloon sticks and cotton buds by 2021. The preamble states that in the EU, 80-85% of marine litter is plastic, with single-use plastic items representing 50% and fishing-related items 27% of the total.

7. The EU Circular Economy Package (CEP) introduces new recycling targets – an overall recycling rate of 55% by 2025, 60% by 2030 and 65% by 2035. The Scottish recycling rate was 58.9% in 2017 and the Scottish target is already to recycle 70% of waste by 2025. The CEP also sets out specific 2030 targets for packaging, including a 55% target for plastic.

Scottish Government action

8. The Scottish Government supports the EU vision to phase out single-use plastics by 2030. The Programme for Government 2019-2020 sets out the Government’s ambition to meet or exceed the standards set out in the EU Single Use Plastic Directive. The Government has committed to:

- Introduce a Deposit Return Scheme (DRS) for single-use drinks containers – draft Regulations have been published for consultation.
- Consult on raising the single-use carrier bag charge from 5p to 10p.
- Take further action by “banning more problematic single use plastic items, such as cutlery, plates and food and drink containers, by 2021”.
- Consult on proposals for a Circular Economy Bill, embedding a new approach to reducing, reusing and recycling materials. The provisions in the Bill will enable charges to be applied to items such as single-use cups.
9. Regulations are also due to be laid in the Scottish Parliament to ban the sale of plastic-stemmed cotton buds, and The Environmental Protection (Microbeads) (Scotland) Regulations 2018 entered into force in June 2018, banning the sale of rinse-off personal care products containing microbeads.

10. Further policies on reducing waste and increasing recycling are set out in the Scottish Government’s Circular Economy Strategy, ‘Making Things Last’. It does not contain specific policies on single-use plastic, but includes a number of policies designed to promote waste prevention and product re-use.

**Expert Panel on Environmental Charging and Other Measures**

11. The Scottish Government appointed an Expert Panel on Environmental Charging and Other Measures in 2018 to provide advice to Ministers on charges or other measures which may be adopted to move towards a circular economy. It is focussing on single-use items and was initially tasked with looking at disposable cups. Its initial report in July 2019 recommended:

- A mandatory charge for single-use disposable beverage cups in combination with ambitious targets for reducing their consumption (expected to be introduced via the Circular Economy Bill).
- Concerted action at national and local level to tackle Scotland’s throwaway culture, including social marketing measures to raise awareness.

**UK-wide measures: plastic tax and packaging producer responsibility**

12. Waste is a devolved matter, but some aspects of waste management and producer responsibility for waste are currently undertaken at a UK-level. In 2018, the UK Government announced that it would introduce a new tax on the production and import of plastic packaging with less than 30% recycled content, subject to consultation. The UK Government issued a call for evidence and consulted in February 2019 on how the tax could work. The consultation states that the tax would be UK-wide, but the UK Government is engaging closely with devolved administrations on its design. The UK Government also consulted on reforming UK-wide Packaging Producer Responsibility regulations in February 2019, with the aim of encouraging businesses to design and use plastic packaging that is easier to recycle, by requiring them to take greater responsibility for the environmental impact of their products and for costs of managing packaging at end of life.

**Voluntary initiatives**

13. There are a number of voluntary initiatives aimed at changing the way that plastics are designed, used and disposed of. Examples include the UK Plastics Pact, a collaboration of businesses in the plastics supply chain (including supermarkets, retailers and manufacturers), which has set a target to eliminate unnecessary single-use plastic packaging, for all plastic packaging to be re-usable, recyclable or compostable and for 70% to be recycled or composted.
by 2025. The Scottish Government is a signatory to the Pact, led by the charity WRAP.

**Scottish Parliament action**

14. **PE01636: Require single use drinks cups to be biodegradable** (lodged 20 February 2017), calls on the Scottish Parliament to urge the Scottish Government to introduce legislation requiring that all single use drinks cups be 100% biodegradable. This petition was referred to the Environment, Climate Change and Land Reform (ECCLR) Committee and is due to be considered taking into account the report of the Expert Panel on Environmental Charges.

**Chamber questions on Single-use Plastic Packaging (Elimination)**

15. The ECCLR Cabinet Secretary answered questions about the elimination of single-use plastics in the Chamber on 09 May 2019 and referred to

- Plans for a deposit return scheme for single-use drinks containers, expected to play an important role in efforts to increase recycling of plastic.
- The UK-wide consultation on packaging producer responsibility as an “important development”.
- The expert panel on environmental charging having an important role to play in shaping future plans.

**Deposit Return Scheme**

16. The ECCLR Committee agreed its approach to consideration of the proposed draft regulations on the deposit return scheme on 3 September 2019. The Committee will issue a call for evidence and invite stakeholders to submit views.

**Marine litter/environmental charging**

17. As part of its work programme, the ECCLR Committee agreed to seek an update from the Scottish Government on its marine litter strategy and approach to marine plastics to inform potential further work on marine litter. As part of its financial scrutiny, the Committee is also considering the use of tax powers and charging to improve environmental outcomes and has considered the effectiveness of the carrier bag charge.

**Action**

18. The Committee is invited to consider what action it wishes to take on this petition. Options include—

- To refer the petition to the Environment, Climate Change and Land Reform Committee under Rule 15.6.2 of Standing Orders.
- To write to stakeholders such as the Scottish Government, the British Plastics Federation, the Expert Panel on Environmental Charging and Other Measures, Scottish Environment LINK, WRAP and Zero Waste Scotland.
• To take any other action members consider appropriate.

SPICe/Clerk to the Committee