The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITIONS COMMITTEE

AGENDA

2nd Meeting, 2020 (Session 5)
Thursday 30 January 2020

The Committee will meet at 9.15 am in the Mary Fairfax Somerville Room (CR2).

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

   PE1319 on Improving youth football in Scotland and will take evidence from Ian Maxwell, Chief Executive and Alyson Evans, Child Wellbeing and Protection Manager, Scottish FA;
   PE1600 on Speed Awareness Courses;
   PE1671 on Sale and use of glue traps;
   PE1674 on Managing the Cat Population in Scotland; and
   PE1709 on Install CCTV cameras and provide full time social work support in all additional support needs schools.

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

   PE1766 on Legal aid for private criminal prosecutions for unwaged and/or learning-disabled victims of abuse;
   PE1768 on Children Hearing proceedings should be minuted and or recorded;
   PE1769 on Higher Education in Scotland;
   PE1772 on Ban Lesbian, Gay, Bisexual and Transgender teaching and sexual pictures from the school curriculum;
   PE1773 on Reform rape law; and
   PE1777 on To introduce British Sign Language (BSL) into the Curriculum for Excellence.
The papers for this meeting are as follows—

**Agenda item 1**

PRIVATE PAPER  
PPC/S5/20/2/1 (P)

Note by the Clerk  
PPC/S5/20/2/2

Note by the Clerk  
PPC/S5/20/2/3

Note by the Clerk  
PPC/S5/20/2/4

Note by the Clerk  
PPC/S5/20/2/5

Note by the Clerk  
PPC/S5/20/2/6

**Agenda item 2**

Note by the Clerk  
PPC/S5/20/2/7

Note by the Clerk  
PPC/S5/20/2/8

Note by the Clerk  
PPC/S5/20/2/9

Note by the Clerk  
PPC/S5/20/2/10

Note by the Clerk  
PPC/S5/20/2/11

Note by the Clerk  
PPC/S5/20/2/12
Public Petitions Committee
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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 7 November 2019. At that meeting, the Committee took evidence from the Children and Young People's Commissioner Scotland. Following this evidence session, a written submission was received from the Commissioner as well as two written submissions from the petitioner.

2. This paper provides a summary of the discussion and issues raised during the evidence session as well as an overview of the written submissions received subsequent to this session.
3. The Scottish FA will provide evidence at today’s meeting. The Committee is invited to consider what action it wishes to take.

Background

4. PE1319 has been under consideration by the Public Petitions Committee since 2010. 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.

5. The Committee has also taken oral evidence from the former Children and Young People’s Commissioner Scotland, Tam Baillie on three occasions between 2011 and 2017. As Members will recall, the former Commissioner undertook a substantial amount of work to consider the regulation of youth football from a rights perspective.

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

- **Compensation schemes** - concerns were raised 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 commented that he did “not know of any other situation in which you can hold a child aged 15 against their will for three years”.

- **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”.

Committee consideration

7. 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 indicating that he did not intend to continue the office’s work and support on the petition.

8. At its meeting on 7 November 2019, the Committee took evidence from the Commissioner. During this evidence session, the Committee highlighted significant and ongoing concerns that young people continue to be exploited, because of the unique nature of football in Scotland, much of which was highlighted in the former commissioner’s report titled *Improving youth football in Scotland*, published in 2015.

9. During the evidence session, the Commissioner noted that the report was “a strong piece of work and raises a number of issues relating to the petition”. He went on to accept that the issues raised in the report had not been completely resolved. Responding to whether there should be a continuing role for the Commissioner to ensure these issues are addressed, the Commissioner stated—

   “It is not that I do not think that is the commissioner’s role; it is that I think that the value that the role can add is to do that rights analysis and provide that powerful evidence to decision makers. The Parliament has a role as a human rights guarantor”.

10. The Commissioner clarified during the evidence session that his main power is to report to Parliament to enable it to hold those in power to account. The Commissioner also explained that the work his office is doing more broadly on child protection and on business and human rights “will certainly have an impact”. He went on to state—

   “… in terms of finding the best value for our limited resources, the focus needs to be on ensuring that we do the thing that we are good at, which is the rights analysis. We then pass that to decision makers and those who can hold the Government and the SFA to account.”

11. During the evidence session, the Committee asked the Commissioner what meetings and discussions had taken place with the football authorities about whether the recommendations or concerns of the previous commissioner had been progressed.

12. The Commissioner explained that soon after coming into his role, he “spoke publicly about child protection concerns in relation to football, particularly in the context of some of the very concerning breaches of children’s rights”. He also explained that he had met with the Scottish FA in October 2017 to reiterate these
concerns and to discuss the progress that had been made. The Commissioner also confirmed that no further meetings had taken place with the Scottish FA.

13. One of the key issues highlighted by the former commissioner and the petitioners was the way in which compensation schemes are administered. In their most recent written submission of 20 January 2020, the petitioners highlight that the issue of professional football clubs’ recurring right to claim compensation in the transfer of children is a fundamental part of their petition that has not been addressed “due to the failings of the responsible footballing bodies to take action and work together to focus on the best interests of children under their realms”.

14. During the evidence session, the Committee asked whether the Commissioner shared his predecessor’s view about compensation payments. In response, the Commissioner stated—

“The position of the office is that there continues to be concern about that”.

15. The petitioners’ written submission of 19 November 2019 highlights a recent case which exposes professional clubs treating a young Scottish football player, Billy Gilmour as a financial commodity, stating that he was—

“… subject of an illegal agreement between Rangers FC and Chelsea FC that has now been confirmed as a breach of the world governing body FIFA’s regulations. The agreement restricted Gilmour’s ability to play for Rangers FC in certain conditions or move to another club in order to protect Chelsea FC’s future investment. Rangers FC were financially penalised as a result. It is important to note that Gilmour was only fifteen years old when the illegal agreement was reached”.

16. A further issue the petitioners consider not to have been resolved, despite “many discussions and submissions to this committee over the last ten years” is the issue of a three-year rolling registration period of age groups fifteen to seventeen. The petitioners go on to explain—

“This current rule allows for children as young as thirteen to be tied to football clubs for a period of three-years with no right to revoke. However, the football club retains a unilateral right to release the child at any time of their choosing. This is an imbalance of power which lies solely at the hands of the professional football clubs”.

17. The issue of multiyear registrations, and how the balance of power is stacked heavily in favour of football clubs rather than the best interests and rights of the child was explored during the evidence session. In response to these concerns, the Commissioner stated—

“The examples around the impact on young players that came through in the [2015 Commissioner] report, which concerned restrictions on movement and being seen as an asset, are concerning. That is why there was a strong recognition that children do not have the same political or economic power as
adults. We have the United Nations Convention on the Rights of the Child, because there is an inherent imbalance. When you start to include the commercial interests relating to football and the power that those interests have, that imbalance becomes even more prominent”.

18. Diego Quiroz of the Children and Young People’s Commissioner Scotland stated further that—

“One of the valuable things about the report is that it highlights the point about the accountability gap that exists and the power disparity and asymmetry between big companies and children. That is reflected in the work that we do constantly, in that the issue of the safety of children as they participate in various activities cuts across a number of sectors. It would not be appropriate to focus only on football”.

19. During the evidence session, the Committee noted the amount of media attention on and investigation of the exploitation and abuse of children in a footballing context and questioned why the Commissioner “would step away from the issue, given that amount of attention”. In response, the Commissioner re-iterated his position that the findings of their 2015 report have been raised and that “the obligation is on the Scottish Government”.

Self-regulation

20. The former commissioner previously told the Committee that he had “no confidence whatsoever that self-regulation will bring about the changes that are required”. The Committee therefore sought the current Commissioner’s views in relation to the regulation of Scottish youth football. The Commissioner confirmed that his position is that there should not be self-regulation, stating—

“In human rights terms, it is important to have the strongest possible legal protection. There might, in some circumstances, be a legitimate place for self-regulation, but when we are talking about human rights issues, as we have been, given the concerns that have been raised throughout this work, there is a compelling case for statutory external regulation”.

21. During the evidence session, the Committee asked the Commissioner whether he would write to the Scottish Government to express his view that Scottish football needs to be regulated. This was in light of concerns that the Commissioner is stepping back from the work of the previous commissioner.

22. On 21 November 2019, the Commissioner wrote to the Cabinet Secretary for Health and Sport to ask whether the concerns and recommendations raised in its report titled Improving youth football in Scotland have been addressed and what steps the Scottish Government “intend to take or have taken thus far on this matter”. A copy of this letter was made available to the Committee and the petitioners and is included in the Annexe.

23. The Commissioner’s letter goes on to ask the Cabinet Secretary specifically—
“...whether the Scottish Government feels that self-regulation is ensuring children’s rights are protected effectively, or whether you agree that statutory measures are now required”.

24. The Committee is yet to receive an update on the Cabinet Secretary’s response to this correspondence.

Action

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

- To reflect on the evidence heard and consider a revised draft report, in private, at a future meeting.
- To seek an update from the Children and Young People’s Commissioner in relation to its recent correspondence with the Cabinet Secretary for Health and Sport.
- To take any other action the Committee considers appropriate.

Clerk to the Committee

Annexe

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

- PE1319/XXX: Petitioners submission of 19 November 2019 (100KB pdf)
- PE1319/YYY: Children and Young People’s Commissioner Scotland submission of 21 November 2019 (140KB pdf)
- PE1319/ZZZ: Petitioners submission of 20 January 2020 (106KB pdf)

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

2nd Meeting, 2020 (Session 5)

Thursday 30 January 2020

PE1600 Speed awareness courses

Note by the Clerk

Petitioner John Chapman

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to introduce speed awareness courses.

Webpage parliament.scot/GettingInvolved/Petitions/PE01600

Introduction

1. This is a continued petition, last considered by the Committee at its meeting on 10 October 2019. At that meeting, the Committee took evidence from Chief Superintendent Garry McEwan, who represented a multi-agency working group convened to devise the necessary infrastructure and guidance to support the introduction of speed awareness courses.

2. The Committee also agreed to write to the Scottish Government regarding the following:

   • the Scottish Government’s position on the introduction of Speed Awareness Courses (SACs), and where SACs would sit in the landscape of road safety measures
   • Whether the Scottish Government has conducted an impact assessment regarding the financial implications of the introduction of Speed Awareness Courses, on the budgets of Police Scotland, but also on other aspects of the justice system, such as Scottish Courts and Tribunals.

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

Committee Consideration

4. This petition was lodged in February 2016. This meeting marks the tenth consideration of the petition. The petitioner has repeatedly expressed his frustration with the time taken to achieve any sense of progress with his petition, particularly as there appears to be broad support for the action called for in the petition.

5. In its submission of 31 January 2019, the Crown Office and Procurator Fiscal Service confirmed that the Lord Advocate “has agreed in principle to the diversion
at source to SAC by Police Scotland as an alternative to prosecution in appropriate cases”.

6. The submission stated that—

“A multi-agency working group, including Police Scotland, COPFS, Scottish Courts and Tribunal Service, Scottish Government Transport officials and the Scottish Safety Camera Programme, will work together to devise the necessary infrastructure and guidance required to support the introduction of SACs in Scotland.”

7. The Committee has previously recognised the importance of understanding the complexities involved in devising this infrastructure and guidance, and how long this process is expected to take.

8. At its meeting on 10 October 2019, the Committee took evidence from Chief Superintendent Garry McEwan, who represented the multi-agency working group convened to devise the necessary infrastructure and guidance to support the introduction of speed awareness courses.

9. Chief Superintendent McEwan outlined the work that had been undertaken so far and confirmed that a bid for £600,000 of capital funding had been submitted to create a bespoke, standalone information and communications technology system to support the roll out of speed awareness courses.

10. Chief Superintendent stated that the multi-agency working group is “very supportive of the implementation of a speed awareness course”, however, the bid for capital funding had to be “independently assessed against all the other competing priorities”.

Scottish Government Correspondence

11. In its submission of 8 November 2019, the Scottish Government reiterated its commitment to the introduction of Speed Awareness Courses as part of its Scotland’s Road Safety Framework to 2020, and to achieving safer road travel in Scotland, stating that it has identified speed as a priority focus area—

“Creating Safe Road Use is a pillar of the ‘Safe System’ that was adopted by the Framework in 2016. Therefore the Scottish Government are clear that the role of road safety education, as part of lifelong learning and among other road safety measures such as safety cameras, is essential in motivating road users to move away from bad practice.”

12. With regard to the financial implications of the introduction of Speed Awareness Courses, the Scottish Government highlighted that in addition to the multi-agency working group, a course content and funding subgroup has been established to consider possible costs appropriately and will consider the funding exercise completed by Police Scotland. The work of this subgroup is at an early stage but is considered “important in helping assess the financial implications of Speed Awareness Courses”. 
13. The Scottish Government also highlights that “decisions about the implementation of diversionary courses in Scotland are for the Lord Advocate, in liaison with Police Scotland and other stakeholders where appropriate.”

Action

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

- To close the petition under Rule 15.7 of Standing Orders on the basis that all relevant organisations are committed to the introduction of speed awareness courses, pending operational and financial assessments by the various working groups mentioned above.

- To take any other action members consider appropriate.

Clerk to the Committee

Annexe

The following submission is circulated in connection with consideration of the petition at this meeting—

- PE1600/Q: Scottish Government submission of 8 November 2019 (68KB pdf)

All written submissions received on the petition can be viewed on the petition webpage.
Public Petitions Committee
2nd Meeting, 2020 (Session 5)
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PE1671 Sale and use of glue traps

Note by the Clerk

Petitioners Lisa Harvey and Andrea Goddard on behalf of Let’s Get MAD for Wildlife

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to ban the sale and use of glue traps and boards in Scotland.

Webpage parliament.scot/GettingInvolved/Petitions/gluetraps

Introduction

1. This is a continued petition, last considered on 20 June 2019, when the Committee took evidence from the Pest Management Alliance (“the PMA”).

2. At that meeting, the Committee agreed to consider a draft of the Pest Management Alliance’s (PMA) redrafted Code of Practice during autumn 2019 and to then consider if it wishes to take further evidence from the PMA at a future meeting.

3. The PMA has provided a draft revised Code of Practice (the “CoP”) which will replace the previous version of the CoP, which was published in 2017 and the Committee is invited to consider what action it wishes to take.

Committee consideration

4. During the oral evidence session on 20 June 2019, the PMA recommended that there should not be a complete ban on the sale and use of glue boards. They stressed that glue boards are not “common place”. Instead, glue boards should only be used as a “last resort”, with all other options being exhausted first, unless there is “imminent risk to public health”.

5. The PMA acknowledged that glue boards “have potential to cause suffering” and committed to revise its CoP to address concerns raised by the petitioners.

6. In its submission of 14 November 2019, the PMA provided its proposed revised CoP, which seeks to clarify the processes PMA members should undertake when using rodent glue boards to minimise the possibility of “acute physical suffering, fear and stress to trapped animals”.
7. The revised CoP states that glue boards—

“…should only be sold to or used by technicians who have been given adequate training and are competent in the effective and humane use of this technique”.

8. The petition raises concerns that glue traps are not checked frequently, which can lead to trapped animals suffering. The revised CoP highlights that the Animal Welfare Act 2006 and Animal Health & Welfare Act 2006 requires frequent inspection times to prevent undue suffering of caught animals. However, the revised CoP raises concern that “too frequent checking may impair the efficacy of the control programme.”

9. Remote monitoring of glue boards is a possible way to monitor the traps without disturbing them. The revised CoP contains a new section to provide best practice on this and states that monitoring the boards in this way “may reduce the amount of time that rodents are trapped”.

10. The PMA also stresses across its revised CoP that “glue boards can cause acute suffering, fear and stress to trapped animals, particularly if used inappropriately or where there are delays in re-inspection times.”

11. The revised CoP specifies a level of training and competency is required before using glue boards, stating those using glue boards “should be trained and competent in their use, which is currently benchmarked at the Royal Society for Public Health level 2 award.”

Petitioners’ response

12. In their submission of 20 September 2018, the petitioners stated that they saw value in the suggestion that the Scottish Government might approve an existing industry Code of Practice, such as that produced by the Pest Management Alliance. They set out a list of “suggested improvements to the current Code which would strengthen its capacity to reduce the suffering caused by glue traps”, which had been compiled after consultation with stakeholders including the Humane Society, OneKind and the Wild Animal Welfare Committee.

13. In their submission of 9 January 2020, the petitioners welcome the revised CoP. However, they state that some of their “key recommendations and suggestions aiming to prevent misuse and unacceptable suffering” have not been addressed and some important requirements “have even been removed”. For example, there is no longer a requirement to provide proof of an operator’s competency prior to sale, and the requirement to conduct a risk assessment every 24 hours has also been removed.

14. The petitioners also stress concerns that the pest control industry continues to be unregulated, which, they believe, renders the CoP unenforceable.
Scottish Government position

15. In their submission of 9 January 2020, the petitioners recommended that the Scottish Government introduce either a complete ban on the sale and use of glue traps, or a public ban of their sale and use alongside additional and formal pest control industry regulations.

16. In its written submission of 1 December 2017, the Scottish Government stated that it was currently considering three options regarding the use of glue boards—

- “No legislative action, but develop a code of practice for the use of glue traps;
- change the law to limit the use of glue traps to professional pest controllers only; and
- change the law to ban the use of glue traps entirely.”

At its meeting on 26 April 2018, the Committee took evidence from the Cabinet Secretary for Environment, Climate Change and Land Reform on the petition. At that meeting, the Cabinet Secretary stated that—

“at present, the preferred option would be to allow the continued use of glue traps but by professional pest controllers only, which would mean their adhering to a code of practice.”

Action

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

- To write to the Scottish Government—
  - seeking an update on its current position.
  - to respond to the concerns outlined by petitioners in their most recent written submission.
- 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—

- PE1671/P: Petitioners' submission of 2 September 2019 (69KB pdf)
• **PE1671/Q: Pest Management Alliance submission of 14 November 2019 (186KB pdf)**
• **PE1671/R: Petitioner submission of 9 January 2020 (127KB pdf)**

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

2nd Meeting, 2020 (Session 5)

Thursday 30 January 2020

PE1674: Managing the cat population in Scotland

Note by the Clerk

Petitioner
Ellie Stirling

Petition summary
Calling on the Scottish Parliament to urge the Scottish Government to review the Code of Practice under the Wildlife and Natural Environment (Scotland) Act 2011 and to identify measures which could be introduced to control the soaring domestic cat population and protect the existence of the Scottish wildcat.

Webpage parliament.scot/GettingInvolved/Petitions/scottishcatpopulation

Introduction

1. This is a continued petition, last considered by the Committee at its meeting on 21 November 2019. At that meeting, the Committee took evidence from the Cabinet Secretary for Environment, Climate Change and Land Reform and agreed to reflect on the evidence heard at a future meeting.

2. Since the last consideration of the petition, the Committee has received two submissions from the petitioner as well as two other submissions in support of the widespread neutering and vaccination of domestic cats.

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

Committee consideration

4. The Scottish Government consulted on its proposals for Licensing of Dog, Cat and Rabbit Breeding Activities in Scotland from 7 September until 30 November 2018. The consultation covered its proposals for—

   “a modern system of licensing for dog, cat and rabbit breeding activities allowing for independent accreditation of applicants to reduce the burden on local authorities. The consultation considers how thresholds for licensing may be determined depending on the size of the undertaking and how this may work for organisations with multiple premises.”

5. The Scottish Government published an analysis of this consultation on 16 April 2019. The petitioner has provided two recent submissions, either side of publication of the consultation analysis.

6. In her submission dated 12 March 2019, the petitioner stated that the proposals to licence cat breeding “could bring an effective solution but only if we get it right”. She considered, however, that the proposed thresholds set out in the
consultation would not help to prevent the “present high level of pet cat over-population”.

7. To support her position, the petitioner provided data and graphics, referring to widely used polls which suggest that 40,000 female cats currently produce two litters per year. She states—

“This represents 400,000 new pet cats a year which is 320,000 in excess of the homes available at replacement level.”

8. The petitioner considers that the proposals present no improvement on these figures and suggests they “could make things dangerously worse” and would “represent a massive backwards step”. The petitioner uses a second graph to demonstrate cat population growth if all owners allowed their cats to produce two litters, stating that it would represent four million new pet cats a year.

9. In this submission, the petitioner restates her view that the Scottish Government’s position on the cat population is in need of updating, and refers to a report published by the Cat Specialist Group of the International Union for Conservation of Nature (IUCN), which addresses the issue of hybridisation—

“With domestic/hybrid cat numbers high, hybridisation is considered the major threat to the survival of the wildcat in Scotland and recent data suggest that this threat is accelerating.”

10. During evidence the Cabinet Secretary for Environment, Climate Change and Land Reform noted:

“Our position is still, broadly speaking, that there is not the empirical evidence that people might expect to see. There is a certain amount of theoretical projection, and I think that that is what is being suggested as evidence… There are a lot of in-built uncertainties and assumptions in and around that. You could apply similar projections to almost any other species and come up with a theoretical set of numbers”.

11. In her most recent submission, dated 20 May 2019, the petitioner acknowledges that the level of support for the regulation of dog, cat and rabbit breeding licensing activities in response to the Scottish Government’s consultation – with over 95% of respondents supporting regulation – is “a step in the right direction”. However, she reiterates her concerns that the proposed threshold could still potentially result in four million new pet cats a year.

12. The Cabinet Secretary noted during oral evidence that the purpose of the consultation on dog, cat and rabbit licensing was not to prevent high levels of pet cat over-population:

“That was based not on numbers but on welfare issues that arose out of the intensive commercial breeding that is beginning to be a problem among a number of pet species. That was what was behind the proposals. They were not aimed at reducing populations of any species and not aimed at reducing populations of cats. That has not been a part of what we were doing”.
13. The Cabinet Secretary further advised that the focus of the Scottish Government’s resources in relation to these issues is on stopping the unneutered feral cat populations in areas where they are trying to at least stabilise the wildcat population. It was noted that the Scottish Government undertake the trap, neuter, vaccinate and release programme to try to achieve a 75% reduction in the feral population.

14. The Committee was advised by the Cabinet Secretary that the Scottish Government has a much better understanding now of the number of wildcats and the genetics and the extent of hybridisation. They are however struggling to secure at least five stable populations of Scottish wildcats.

15. In their submission of 19 July 2019, the Scottish Government noted it was unnecessary to compulsory microchip and neuter owned domestic cats in areas where there are no Scottish wildcats.

16. During oral evidence the Cabinet Secretary advised they were focussing on the five wildcat priority areas:

“…we are focusing very much on the priority areas and the people who have domestic pets in those areas. That is why the campaigning and the effort are focused on those areas rather than areas where the likelihood of cats interfacing with wildcats is vanishingly small. It is a resource focus issue. If we were to talk about this just as a blanket measure all over Scotland, we would be capturing populations of domestic cats that will never in 100 years intrude on a wildcat’s territory or have a wildcat on their territory”.

**Petitioner’s response**

17. In her most recent submission of 18 January 2020, the petitioner reiterates the need for the action called for in the petition stating the need for “legal measures across the whole of Scotland that would prevent cat ownership unless they were neutered/ vaccinated/ microchipped, starting with the priority areas and extending to the whole of Scotland.”

**Action**

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

- To close the petition under Rule 15.7 of Standing Orders on the basis that the Scottish Government is currently undertaking work to protect the existence of the Scottish wildcat, including measures to help secure 5 stable populations of Scottish wildcats.

- Any other action the Committee wishes to take.

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Annexe

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

- PE1674/P: Petitioner submission of 14 December 2019 (197KB pdf)
- PE1674/Q: Dr Keri Langridge Submission of 5 January 2020 (144KB pdf)
- PE1674/R Allan Bantick submission of 18 January 2020 (102KB pdf)
- PE1674/S Petitioner submission of 18 January 2020 (824KB pdf)

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

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PE1709: Install CCTV cameras and provide full time social work support in all additional support needs schools

Note by the Clerk

Petitioner Claire Mooney

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to install CCTV cameras and establish full time social work presence in all additional support needs schools in Scotland.

Webpage parliament.scot/GettingInvolved/Petitions/PE1709

Introduction

1. This is a continued petition, last considered by the Committee on 20 June 2019. At this meeting, the Committee discussed concerns raised in written evidence received in relation to the action called for in the petition. This included possible infringements of human rights relating to privacy, as well as general data protection regulations implications.

2. In its written submission, UNISON suggested that, as an alternative to the use of CCTV cameras, body cameras could be used to record incidents to support training. The Committee therefore agreed to seek the views of the petitioner and COSLA in relation to this suggestion.

3. COSLA’s submission was received on 18 December 2019. The petitioner’s submission was received on 16 January 2020.

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

Committee Consideration

5. The Scottish Government’s submission of 21 December 2018 stated that some grant-aided special schools use CCTV cameras. The submission went on to explain that the Education (Scotland) Act 1980 places statutory responsibilities onto local authorities, meaning that the decision to use CCTV in a public school would be a matter for local authorities.

6. Both UNISON and NASUWT Scotland stated in their written submissions that they do not support the installation of CCTV cameras in schools. UNISON is of the view that it could foster a “culture of blame/punishment”, and that cameras cannot watch everywhere. Alternatively, it suggests—
“Rather than CCTV there should be a substantial investment in staff who can identify pupils’ additional support needs. After these have been identified staff need to be put in place to deliver the support identified. Funding is required for staff training and ongoing professional development. The aim should be to avoid restraint and improve practice rather than catch and punish staff or pupils.”

7. NASUWT Scotland’s submission stated—

“It is our experience that CCTV serves little useful purpose in the vast majority of circumstances. It can be helpful in grounds and building monitoring for security purposes but only if it is being monitored by appropriate staff and if staff are able to respond if an incident occurs. Simply installing CCTV and reviewing tapes afterwards is a limited value. It is of even more limited if any value in classrooms.”

8. The submission concludes; “that at a time when resources in schools are at a premium, expenditure on expensive CCTV should not be a priority given its limited value”.

9. In response to this statement, the petitioner states –

“… if this was fact then there would be reasons for CCTV in town centres, on buildings and shops, offices and warehouses, Hospitals and prisons ambulances and taxis even Parliament itself.”

10. In its written submission, the Scottish Secondary Teachers’ Association explained that it passed a motion in 2018 in relation to the use of CCTV in schools, noting the positives to safety but also the importance of the technology not being used to gather data for “performance management purposes or capability procedures”, the submission goes on to state—

“CCTV cameras cannot be a replacement for the range of educational staff but as an added technological advancement in addition to staff in making schools a place of safety for both pupils and staff… There are data protection issues and human rights issues for both young people and educational and support staff which need to be addressed before the introduction of CCTV cameras.”

11. A possible alternative suggested by UNISON was that there may be a role for body cameras —

“…they can record incidents which can be used for analysis which can support training either through demonstrating good practice and/or reflection/discussion round how different approaches earlier on could have led to different outcomes.”

12. At its meeting on 20 June 2019, the Committee therefore agreed to seek the views of the petitioner and COSLA in relation the suggestion by UNISON to use body cameras. COSLA were also invited to provide their views in relation to the action called for in the petition more widely.
13. In its written submission of 18 December 2019, COSLA note they have a number of initial concerns about the proposal for CCTV cameras, either fixed or mounted (including body cameras). These concerns include:

- would invade the privacy of both children and young people and school staff and is not in line with the broader direction of policy which is focused on recognising and protecting the rights of children and young people,
- could upset the established classroom environments and could impact negatively on the learning and teaching within our schools,
- questions the professional integrity and judgment of our teachers and potentially deter good people from working in schools if they are going to be constantly monitored by fixed cameras or required to wear body cameras,
- would require significant additional resources for the purchase, installation, training and ongoing monitoring of the cameras.

14. COSLA note that regrettably in some cases there will be situations where, as a last resort, a child or young person may be restrained or secluded to prevent harm to themselves and others. They believe it is important that school staff have the skills, adequate support and clear guidance to do this appropriately.

15. It has recently been agreed that refreshed guidance and consistent recording processes will be developed. COSLA are working with Scottish Government, Education Scotland, parents, children and young people, unions, teachers and Directors of Education to develop this.

16. COSLA advised the Children’s Commissioner has been invited to participate in this process. Once work on the refreshed guidance and recording is complete it will be introduced nationally, and Education Scotland will report on this.

17. In relation to the petitioners request for a full time social work presence in all additional support needs schools in Scotland, COSLA noted:

“Schools come in different shapes and sizes and the number of pupils with Additional Support Needs will vary, as will their support needs. We would not be supportive of locating social workers in all ASN Schools regardless of demand. This would appear to be too prescriptive and would be likely to reduce the provision of this important resource outwith schools. Our view is that local authorities are best placed to work out how best to deploy staff, including social workers, based on demand and available resources”.

Petitioners’ response

18. In her submission of 16 January 2020, the petitioner expresses her disappointment in relation to the submission by COSLA stating that “I feel it has missed an opportunity to engage fully to address the deficits within Policy and the benefits and security brought by” the petition.
19. The petitioner also challenges COSLA’s concerns about the proposal for CCTV cameras, stating that each concern outlined is a “broad statement, with no evidence, opinion and assumption”.

20. The petitioner specifically challenges COSLA’s concern that using CCTV would invade the privacy of both children and young people and school staff, stating that people’s images are captured by CCTV when they are in the street, in shops, on public transport and public buildings including hospitals etc. and its prevalent use is indicative of an acceptance of CCTV use.

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 from the written submissions received, there is limited support for the action called for in the petition;
- 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—

- PE1709/A: UNISON Scotland submission of 17 December 2018
- PE1709/B: NASUWT Scotland submission of 20 December 2018 (141KB pdf)
- PE1709/C: Scottish Government submission of 21 December 2018 (127KB pdf)
- PE1709/D: Scottish Secondary Teachers’ Association submission of 21 December 2018 (125KB pdf)
- PE1709/F: COSLA submission of 18 December 2019 (103KB pdf)
- PE1709/G: Petitioner submission of 16 January 2020 (160KB pdf)

All written submissions received on the petition can be viewed on the petition webpage.
Public Petitions Committee
2nd Meeting, 2020 (Session 5)
Thursday, 30 January 2020

PE1766: Legal aid for private criminal prosecutions for unwaged and, or, learning-disabled victims of abuse

Note by the Clerk

Petitioner
Andrew Buchan

Petition summary
Calling on the Scottish Parliament to urge the Scottish Government to change the law to provide free legal aid to people who are unwaged and/or learning-disabled victims of abuse who wish to bring a private criminal prosecution.

Webpage
parliament.scot/GettingInvolved/Petitions/legalaidprivateprosecutions

Introduction

1. This is a new petition that collected 14 signatures in support.

Background

2. The petitioner wishes legal aid to be made available to certain victims of abuse to enable them to bring private prosecutions.

3. Broadly, legal aid is currently available to those with low incomes. However, the present legal aid rules would not allow a solicitor to represent someone in relation to a private prosecution.

4. However, a bigger hurdle for the petitioner is likely to be the difficulty in bringing private prosecutions. The court exercises its discretion to allow private prosecution very rarely and has to be persuaded that the circumstances are “exceptional”.

5. These issues are discussed in more detail below.

Legal Aid

6. Legal aid provides financial assistance to enable those on low and moderate incomes to access legal services. The Scottish Legal Aid Board administers legal aid on behalf of the Scottish Government. There are several different types of legal aid, depending on the type of assistance required and the court procedure involved.

7. There are three types of criminal legal assistance:
• **Advice and Assistance** — allows a solicitor to provide advice, but not representation in court, on any aspect of Scots law.

• **Assistance By Way of Representation (ABWOR)** — a form of Advice and Assistance which enables a solicitor to represent their client in certain, specified legal forums.

• **Criminal Legal Aid** — provides representation in court for those accused under solemn procedure (for more serious crimes) and those who plead not guilty under summary procedure (for less serious crimes).

8. The only form of legal aid currently available to someone who wishes to bring a private prosecution would be Advice and Assistance. This would cover advice on the legal procedures only — not representation in court nor the initiation of court proceedings by a solicitor on behalf of their client.

9. Legal aid was made available to several families (including families of some of the victims of the Glasgow bin lorry tragedy) to pursue private prosecutions. This required a specific determination¹ by Scottish Ministers that money should be paid out of the legal aid fund for this purpose.

10. The then Cabinet Secretary for Justice, Michael Matheson MSP, outlined the Scottish Government’s reasons for making the determination in response to a parliamentary question ([Question S4W-30521](#), from Roderick Campbell MSP). The response made clear that the decision rested on the circumstances of those particular cases.

**Financial eligibility**

11. Those applying for criminal legal assistance must meet financial eligibility criteria.

12. Very broadly, Advice and Assistance and ABWOR may be available to someone whose net weekly income does not exceed £245. Net income is income after certain allowances for dependants and essential expenditure are deducted. Applicants cannot have capital assets worth more than £1,716.

13. Note though, that applicants may be required to make a contribution from their own income towards their legal aid bill. This contribution increases as the applicant’s income approaches £245 per week.

14. Criminal Legal Aid may be available where meeting the expenses of the case would cause “undue hardship” to the applicant or their dependants. Those who qualify are not required to make a financial contribution to the costs of their case.

15. An applicant may also have to meet other criteria in order to access legal aid.

¹ Under Section 4(2)(c) of the Legal Aid (Scotland) Act 1986.
Private prosecution

16. Prosecution in Scotland is almost always carried out by the Lord Advocate. He makes his decisions about whether to prosecute on the basis of “the public interest”. Procurators fiscal, employed by the Crown Office and Procurator Fiscal Service, act on the Lord Advocate’s behalf.

17. While it remains theoretically possible, private prosecution is extremely rare in practice. There has only been one successful case in the past 100 years².

18. In the Glasgow bin lorry case, the court stated (paragraph 85):

“Although it remains open to a private citizen to apply to the court for permission to bring a private prosecution where the Lord Advocate has declined to prosecute or grant his concurrence to a private prosecution, the circumstances in which such permission may be granted have repeatedly been described as exceptional.”

19. In that case, the court found that the circumstances were not exceptional and permission to proceed was refused.

20. The SPICe briefing on Petition PE 1633 provides more information about private prosecution.

Scottish Government Action

21. The Scottish Government determined that legal aid should be made available to ask the court for permission to take forward private prosecutions in the Glasgow bin lorry and Convy/Stewart cases. This is discussed in more detail above.

Scottish Parliament Action

22. The Scottish Parliament considered Petition PE1633, calling for an extension to the right to bring a private prosecution in Scotland. The Justice Committee closed this petition in February 2019. However, initial correspondence with the Scottish Government and Crown Office and Procurator Fiscal Service provides useful background information on the issue.

Written submissions

23. In their written submission of 18 December 2019, the petitioner advises that the intention of the petition is to make legal aid for private criminal prosecutions standard without having to meet any criteria other than a crime or crimes have been committed.

24. The petitioner notes:

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“At the moment it is at the discretion of the establishments not the victim to decide whether a crime has been committed or not. All crimes are in the public’s interest to be heard and it is the right for all to have access to Justice and the protection of Police and other services and not for anyone to be discriminate against by the establishments on the basis of their disability Gender Race nor their Mental and emotional condition.”

25. In their written submission of 4 January 2020, Billie Fletcher expresses support for the petition, stating—

“I have been severely affected by the issues raised by the petitioner, and feel that the scope of the request should be widened to include all who are subject to multiple disadvantage. The framework for assessing risk of homelessness would be a useful benchmark to use”.

Action

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

- To write to the Scottish Government seeking its views on the action called for in the petition.
- To take any other action members consider appropriate.

SPICe/Clerk to the Committee

Annexe

The following submission is circulated in connection with consideration of the petition at this meeting—

- **PE1766/A: Petitioner submission of 18 December 2019 (85KB pdf)**
- **PE1766/B: Billie Fletcher submission of 4 January 2020 (86KB pdf)**
Public Petitions Committee

2nd Meeting, 2020 (Session 5)

Thursday, 30 January 2020

PE1768: Children Hearing proceedings should be minuted and or recorded

Note by the Clerk

Petitioner: James Mackie

Petition summary: Calls on the Scottish Parliament to urge the Scottish Government to ensure that all proceedings in a Children's Hearing are minuted or recorded.

Webpage: parliament.scot/GettingInvolved/Petitions/PE01768

Introduction

1. This is a new petition that collected 74 signatures in support.

Background

Legislative framework

2. The Children's Hearing System was established in 1971 under the Social Work (Scotland) Act 1968. The Children (Scotland) Act 1995 repealed, re-stated and modified those aspects of the 1968 Act concerning Children's Hearings. The Children's Hearings System is currently provided for by the Children's Hearings (Scotland) Act 2011 (“the 2011 Act”). The 2011 Act again consolidated the previous legislation and made mostly structural changes to the Children's Hearings System. The 2011 Act followed a period of review which started around 2004 and coincided with the development of the ‘Getting it Right for Every Child (GIRFEC)’ approach to improving outcomes and supporting the wellbeing of children and young people.


Outline of the Children’s Hearing System

4. There are a number of grounds on which a child's case can be referred to a children’s hearing. For example, on offence grounds or because of abuse or neglect. However, it is the “needs rather than the deeds of the individual child that
is the primary consideration”\(^1\). The children’s hearing should “regard the need to safeguard and promote the welfare of the child … as paramount.”\(^2\).

5. A children’s hearing consists of three lay members, one of whom is the chair. Panel members are trained, recruited and supported by Children’s Hearings Scotland. Rule 3 of the 2013 Rules requires that the panel be comprised of at least one man and at least one woman from the relevant local area, where practicable. Rule 3 also provides for a children’s hearing to request that there be some continuity in membership of the children’s panel at the next children’s hearing to be arranged in relation to that child.

6. The Scottish Children’s Reporter Administration handles referrals to the children’s hearing and a reporter will draw up a statement of grounds for the referral. Grounds can be accepted (by the child and/or relevant person(s)) or, if not, it would be for a sheriff to determine whether grounds had been established.

7. The reporter collects and provides paperwork (e.g. social work reports) to the panel, relevant parties and, in some cases, the child in advance of a hearing. Any paperwork is provided to the three panel members sitting in the hearing and to others who have a right to attend the hearing. The Reporter has a duty to provide information, where it is available, within timescales set out in the 2013 Rules.

8. The children’s hearing considers what, if anything, should be done to support the child once grounds have been accepted or established. That is, the hearing will consider whether to make a Compulsory Supervision Order (“CSO”) and, if so, the terms of the CSO. While the focus is on how best to support the child, the hearing could potentially consider disputes of fact outside of the established or accepted grounds, e.g. a child’s attendance at school. If a CSO is made, it would normally be for the local authority to carry out any instructions contained within the CSO (e.g. through a social work intervention).

Record keeping and the provision of information about a hearing

9. The 2013 Rules set out duties for both the chair of the panel and the reporter. In terms of the chair, Rule 6(c) state that the chair must ensure that a record is made of—

   (i) the decisions or determinations made by the children’s hearing or pre-hearing panel, as the case may be; and

   (ii) the reasons for those decisions or determinations; and

   (d) sign and date the record of the decisions or determinations.

10. Rule 13 provides for duties on the Reporter in terms of record keeping at a hearing. Rule 13 is reproduced in Annexe B of this paper. These records are in relation to

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2 Section 25(2) of the 2011 Act.
the location, time and date of the hearing, details of the child and any other attendees, and details of the decision and any directions made.

11. Once the hearing has taken place, the Reporter will, usually, provide details of the decision, why it was made, and routes of appeal to the child and any relevant person.

**Appeals**

12. The petitioner’s concern appears to be that appeals can be made to the sheriff without sufficient information. Appeals can be made by the child, a relevant person or the child’s safeguarder³ to a sheriff on the substantive decisions of a hearing. Section 155 of the 2011 Act provides that the SCRA must lodge with the court:

- the decision and reasons for the decision of the hearing;
- any information provided to the hearing under the 2013 Rules; and
- the report of the children’s hearing.

13. Section 155 also provides for sheriffs to be able to hear oral evidence as part of the appeal.

14. The most recent SCRA statistics state that, in 2018-19, there were 824 appeals covering 651 children. Of these 824 appeals, 43% were successful.⁴ Statistics for disposals of appeals of other legal cases are not collected in Scotland. The most recent statistics for criminal cases are from 2008-9 which show that 25% of appeals in criminal cases were sustained

**Scottish Parliament and Scottish Government Actions**

15. The Education and Skills Committee undertook post-legislative scrutiny of the 2011 Act in 2017. Its report was published on 25 April 2017 and the level of detail of records does not appear to have been raised during the inquiry. Submissions and the responses to the report can be found here:


16. Scottish Government officials chair the Children’s Hearings Improvement Partnership (“CHIP”). CHIP seeks to bring together a range of people from organisations across Scotland to develop and improve the Children’s Hearings System.

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³ A person who may be needed to safeguard the interests of the child in Children’s Hearing proceedings.

⁴ Personal correspondence with the SCRA.
Petitioner submission

17. The petitioner has provided a written submission in response to the SPICe briefing. In this submission, the petitioner agrees with the briefing where it notes the only information recorded other than date time, location and attendees is the decision of the panel members; no full note is kept.

18. The petitioner is of the view that there can be no correlation between statistics for children’s hearing appeals and criminal proceedings appeals as they are operated under completely different judicial processes. However, the petitioner advises one explanation of why 54% of appeals to the Sheriff in child protection cases are not upheld could be:

“found in Sheriff's written judgements where they state clearly that they do not have the full information to ascertain why the Children's Hearing came to its final decision, therefore they cannot uphold the Appeal through lack of information.”

19. In relation to the “oral evidence” provided to Sheriffs mentioned above, the petitioner advises members of the Children's Hearing are not called to give their reasons and what evidence it was based on. The petitioner notes the Children's Hearing is represented at appeals by a Reporter, who they believe can only be speaking from memory as no record is kept of the full discussion.

20. As mentioned above, CHIP seeks to bring together a range of people from organisations across Scotland to develop and improve the Children’s Hearings System. The petitioner advises:

“Neither children or their parents who have been through the system are involved in these discussions, therefore every point made and discussed is totally one sided without knowledge or understanding of the other – namely the child and parents view point.”

Action

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

- To write to the Scottish Government to:
  - seek its views on the action called for in the petition
  - request further details on CHIP, including why parents and children are not involved.

- To take any other action members consider appropriate.

SPICe/Clerk to the Committee
Annexe A

The following submission is circulated in connection with consideration of the petition at this meeting—

- PE1768/A: Petitioner submission of 3 January 2020 (73KB pdf)

Annexe B


13.—(1) The Reporter must keep a record of the proceedings at each children’s hearing and pre-hearing panel held by virtue of the Act or any other enactment.

(2) The record to be kept by the Reporter must include the information mentioned in paragraph (3) and such other information about the proceedings as the Reporter considers appropriate.

(3) That information is—

(a) the particulars of the place and date of the children’s hearing or pre-hearing panel;

(b) the full name and address, date of birth and sex of the child in relation to whom the children’s hearing or pre-hearing panel is held;

(c) the full name and address of each relevant person;

(d) which of the persons mentioned in sub-paragraphs (b) and (c) attended the children’s hearing or pre-hearing panel;

(e) the full name and address of any representative attending the children’s hearing or pre-hearing panel;

(f) the full name and address of any safeguarder attending the children’s hearing or pre-hearing panel;

(g) the details of any other person attending the children’s hearing or pre-hearing panel;

(h) the details of any decision or determination made by the children’s hearing or pre-hearing panel or any other course of action taken by the children’s hearing or pre-hearing panel;

(i) where the children’s hearing to which the record relates is a grounds hearing—
(i) the details of any section 67 ground which is accepted, or not accepted, or is not understood and by whom;

(ii) the detail of any direction given by the grounds hearing under section 93(2)(a) (grounds not accepted: application to sheriff or discharge) or 94(2)(a) (child or relevant person unable to understand grounds) of the Act to the Reporter to make an application to the sheriff.
Public Petitions Committee

2nd Meeting, 2020 (Session 5)

Thursday, 30 January 2020

PE1769: Higher Education in Scotland

Note by the Clerk

Petitioner: Marie Oldfield

Petition summary: Calling on the Scottish Parliament to urge the Scottish Government to review the way higher education in Scotland is set up and delivered in Scotland including:

- how students’ rights are enforced; and
- whether there is scope to allocate more power to the Scottish Public Services Ombudsman.

Webpage: parliament.scot/GettingInvolved/Petitions/PE1769

Introduction

1. This is a new petition that collected 9 signatures in support.

Background

The Quality Assurance Agency Scotland

2. Teaching quality at Scottish higher education institutions (HEIs) is framed centrally by the Quality Enhancement Framework (QEF) led by the Quality Assurance Agency (QAA) in Scotland.

3. QEF is an enhancement led approach to quality in Scottish higher education. Collaboration and partnership are said to be “at the heart of this innovative method”. The QEF is intended to support institutions in managing the quality of the student learning experience. It is also said to provide public confidence in academic standards and the quality of the student experience.

4. The collaborative approach is intended to be:

- Coherent – its design allows all elements to work together
- Enhancement focused – rather than quality assurance focused
- Focused on the whole student experience

5. The QAA works in partnership with Scottish Government, sector agencies (the Scottish Funding Council (SFC), Universities Scotland, NUS Scotland, Student
Partnership in Quality Scotland (SPARQS) and Advance HE) and all Scottish HEIs support quality improvement through the QEF.

6. The QAA has a role to play in reviewing higher education in Scotland alongside individual HEIs and the SPSO. For example, through its Scottish Concerns Scheme, it can investigate concerns raised by students, staff and other parties on academic standards and quality in Scottish HEIs. This is not, however, a mechanism for addressing individual complaints or grievances. These should be addressed through the institution’s internal mechanisms and, ultimately, via the Scottish Public Services Ombudsman.

7. QAA Scotland’s Scottish Concerns Scheme focuses on how HEIs manage their academic standards, the quality of learning opportunities and the information that HEIs make available about their provision. Where concerns indicate serious systemic or procedural problems, a detailed investigation “will be conducted”. The scheme sets out the process for this. The intent is to promote public confidence in the university sector by offering a responsive means of exploring cases brought to the QAA’s attention outside the regular review processes.

8. Universities carry out institution-led reviews about every six years. An annual report on institution-led review activity by each HEI, signed off by the governing body, is produced each year.

9. QAA Scotland provides an analysis of these reports to the SFC. The SFC has a contract with the QAA to carry out independent external reviews, known as Enhancement-led institutional reviews (ELIR). The review teams are appointed by QAA and include senior academics, an international reviewer and a student reviewer. The QAA publishes ELIR reports on its website and provides an annual briefing on outcomes and issues arising from the previous year’s ELIRs, as well as other enhancement activities that have taken place.

National Student Survey

10. One route for students to express their views about the quality of teaching in higher education is via the National Student Survey (NSS). The NSS is aimed mainly at final year undergraduates gathering opinions about their time in higher education, asking them to provide honest feedback on what their course has been like. It is intended to provide public information about higher education and to give students a collective voice to shape the future of their course and their institution for current and prospective students.

11. The results from NSS 2019 are available online. In 2018, the SFC press release accompanying publication noted an increase in overall student satisfaction at Scottish HEIs from 83 per cent to 84 per cent in 2019.

Teaching Excellence Framework

12. The Teaching Excellence and Student Outcomes Framework (TEF) is led by the Office for Students. Mainly focused on teaching excellence within universities in England. Five Scottish HEIs have voluntarily signed up to the requirements of TEF.
13. TEF is an exercise, operated by all publicly funded colleges and universities in England, to encourage excellent teaching and to gauge how well institutions ensure excellent outcomes for their students in terms of graduate level employment or further study. The results of this work, alongside other sources of information, are intended to help those considering higher education choose where to study. The ratings awarded to universities as a result of TEF activity are judged by an independent panel of students, academics and other experts.

14. While Scottish HEIs are not required to participate in TEF (given the existence of QEF to cover teaching quality in Scotland), five Scottish HEIs have opted to participate. These are: the University of Abertay Dundee; the University of Dundee; Heriot-Watt University; the Robert Gordon University; and the University of St Andrews. A Gold award means that an institution offers “consistently outstanding teaching, learning and outcomes for its students.” This award is issued where teaching is of the highest quality. The Silver award is where HEIs are delivering high quality teaching, learning and outcomes which, “… consistently exceeds rigorous national quality requirements for UK higher education”.

15. In England, TEF awards have an impact on tuition fees that can be charged. In Scotland, Wales and Northern Ireland, participation in TEF has no bearing on tuition fees.

*Terms and conditions*

16. Universities can set out what a student may expect from a university in the form of terms and conditions (e.g. Edinburgh).

17. The Competition and Markets Authority (“CMA”) published guidance for Higher Education Institutions in 2015 in which it noted that “consumer protection law will generally apply to the relationship between HE providers and prospective and current undergraduate students.”

18. Following the CMA guidance, Universities UK published a briefing on student contracts in 2018. Both publications highlighted the need for clear processes for complaints and redress. The CMA noted that, in certain circumstances, a student could potentially pursue a civil claim for breach of contract (para 2.31); however, guidance by Universities UK states that students should, “have access to complaints schemes and independent adjudication to resolve disputes without costly court action”.

*Scottish Public Services Ombudsman*

19. The Scottish Public Services Ombudsman (SPSO) has a wide remit, including certain responsibilities in relation to HEIs. The SPSO’s statutory functions are set out in the Scottish Public Services Ombudsman Act 2002.

20. The SPSO’s role in relation to HEIs is to act as the final arbiter where complaints about an HEI are not satisfactorily resolved through its internal complaints’ procedures. It does not hear appeals about decisions made by HEIs. The SPSO can check whether the decision has been properly made; it cannot, however,
change or overturn the decision. If the SPSO finds that something has gone wrong, it can make recommendations to put things right.

**Scottish Government Action**

21. There has been a significant amount of activity focused on the governance of both colleges and HEIs in the past decade. The *Post-16 Education (Scotland) Act 2013* (the 2013 Act), and then the *Higher Education Governance (Scotland) Act 2016* (the 2016 Act), set out in statute a number of requirements relating to formal governance arrangements that emerged from reviews commissioned by the Scottish Government to look at the governance of both colleges and HEIs.


23. The Code is mainly concerned with the governance mechanisms that oversee the teaching and research that takes place in HEIs. Importantly, both the legislation and the Code reiterate the importance of HEIs continuing to be seen as autonomous bodies. The legislative changes, notably through the 2016 Act, were intended to systemise a number of the governance arrangements including the membership of governing bodies at HEIs. One development was that students and staff members are now represented within the governance bodies of HEIs. This development recognises the important role that governance bodies play in oversight of HEIs and for such bodies to balance the needs of a range of stakeholders, including staff, students, alumni, employers, research partners and public bodies.

24. As noted above, the SFC plays a role in quality assurance of teaching via the work of the QAA, which is reported to the SFC. It also directly works with individual HEIs via the Outcome Agreement process. Each year, the SFC [outcome agreement managers](https://www.gov.scot ) work with HEIs (and colleges) to identify outcome activity in line with Scottish Government policy priorities.

25. The [Guidance for the development of University Outcome Agreements: 2020-21 to 2022-23](https://www.gov.scot ) makes specific reference to a Scottish Government strategic priority, “to provide high quality learning in a system where institutions work in partnership and demonstrate the highest standards of governance and financial accountability”. Aligned with this is the SFC core objective:

> “to ensure our colleges, universities and specialist institutions form part of a successful, world-leading, coherent and sustainable system of education that responds effectively to the future needs of learners and the skills needs of the economy and society, enhances our rich cultural life, and strengthens Scotland’s international connection.”
Scottish Parliament Action

26. In terms of Higher Education, the focus of the Education and Skills Committee this session has been on **widening access**, the impacts of Brexit, and budgets.

27. Over the past several years, the Local Government and Communities Committee has held annual evidence sessions with the SPSO following the publication of the SPSO’s annual report and accounts.

Action

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

- To write to the Scottish Government seeking its views on the action called for in the petition.

- To identify and write to key stakeholders to seek their views on the action called for in the petition. Stakeholders may include the Scottish Public Services Ombudsman and the Quality Assurance Agency Scotland.

- To take any other action members consider appropriate.

SPICe/Clerk to the Committee
Public Petitions Committee
2nd Meeting, 2020 (Session 5)
Thursday, 30 January 2020

PE1772: Ban Lesbian, Gay, Bisexual and Transgender teaching and sexual pictures from the school curriculum

Note by the Clerk

Petitioner
Pamela Suarez

Petition summary

Webpage parliament.scot/GettingInvolved/Petitions/PE01772

Introduction

1. This is a new petition that collected 6 signatures in support. The petition also gathered 2 comments which did not support the action called for in the petition.

Background

2. The petitioner sates that she agrees with The Christian Institute that:

“sex and relationships education, like all education, is primarily the responsibility of parents. Therefore, parental authority must be obtained, such as through consultation with parents and the parental right of withdrawal from sex education”.

3. She argues that primary school is too early for:

“the kind of sex and relationships education advocated by the sex education lobby. Some of the materials already being recommended for primary schools are completely inappropriate”.

4. The petitioner is also concerned about the promotion of homosexuality, and that:

“The use of Lesbian, Gay, Bisexual and Transgender teaching and sexual cartoons in schools will induce children to other sexual conduct and promote further identity confusion”.

5. The school curriculum is largely non-statutory. A school’s curriculum is based upon local decision-making informed by national guidance.
Scottish Government action

Sex and relationships education in schools

6. Scotland’s Curriculum for Excellence has eight curriculum areas, one of which is health and wellbeing. Many of the outcomes in this curriculum area are the responsibility of all adults working in schools and early years settings. Secondary schools may choose to provide some of this content through personal and social education (PSE) lessons. Under PSE, pupils can be taught about relationships, sexual health and parenthood.

7. Scottish Ministers have a power to issue guidance on sex education under s.56 of the Standards in Scotland’s Schools etc Act 2000. There is no mandatory requirement to provide sex education, and neither is there a requirement for pupils to attend classes providing sex education. In addition, sex education may be incidental in other aspects of the curriculum (e.g. biology) which makes it difficult for parents to withdraw a child if they so wish.

Review of PSE

8. The Scottish Government undertook a review of PSE in Scotland and, in January 2019, made a series of recommendations for improvement. The intention was to implement these during the current parliamentary session, to March 2021. The recommendations included:

- That the forthcoming review to update the existing guidance available to schools ‘Conduct of Relationships Sexual Health and Parenthood Education in Schools (2014)’ includes appropriate guidance to ensure that consent education is age and stage appropriate and reflects the issues that are facing children and young people, especially from online influences.

- Education Scotland, building on the recommendations of the LGBTI Inclusive Education Working Group, will undertake a peer-review, in collaboration with practitioners, of selected effective curriculum materials to support learning related to the other protected characteristics and for learners requiring additional support needs.

LGBTI inclusive education

9. On the 8 November 2018, the Scottish Government announced that Scotland would be the first country in the world to have LGBTI inclusive education embedded in the curriculum. It accepted in full the recommendations of the LGBTI Inclusive Education Working Group. The 33 recommendations cover the professional learning of teachers, practice and guidance, school inspections and anti-bullying. They will be delivered before the end of the current Parliamentary term in March 2021.
Sex and relationships education resources

10. **SHARE** is an educational resource for use by teachers to support learning about Relationships, Sexual Health and Parenthood. It includes a 22-lesson pack, including handouts. The focus is on interactive learning based on the age and stage of participating young people aged 13–16. It states:

   “Schools are expected to inform parents and carers about their RSHP programme. Most will be supportive; many will find it helpful to know when it is taking place and what sort of issues you will be covering; some will have anxieties – they may want to see materials you will be using or they may want to discuss their concerns, some of which may stem from their own lack of knowledge. The more open and involving of parents and carers you are, the more supportive they are likely to be. They will also be more able to discuss further at home the RSHP issues being discussed in the classroom.” (p20)

11. SHARE includes guidance on the materials used:

   “The materials have been successfully piloted with a wide range of students. However, there may be some sessions, project sheets or handouts that are not appropriate to the needs of all students. Rather than adopting a ‘lowest common denominator’ approach, we have aimed at the majority in a class and suggest that educators modify materials where necessary.” (p25)

12. In **God’s Loving Plan**, the Scottish Catholic Education Service provides guidance to primary school teachers, setting out “how children can be helped to develop healthy and respectful attitudes to their bodies and to relationships with families and friends”.

13. **RSHP is an online resource** for use in early learning settings, primary and secondary schools, colleges and in community-based learning. It links to digital content by age and provides information for parents.

14. **Education Scotland** provides information for parents about RSHP education.

Scottish Parliament Action

15. Since the establishment of the Scottish Parliament, there has been a growing recognition and acceptance of same sex relationships. This is evidenced in attitudinal research which shows that the proportion of people who say that same sex relationships are wrong has been steadily declining over time.

16. In the early days of the Scottish Parliament, the then Scottish Executive committed to repealing section 28 (also referred to as section 2A), a provision in the Local Government Act 1986 that prevented the promotion of homosexuality by teaching or publishing material. Section 28 provided:

   (1) A local authority shall not –
   (a) intentionally promote homosexuality or publish material with the intention of promoting homosexuality;
(b) promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship.

17. Despite a privately funded campaign to 'keep the clause', the Scottish Parliament repealed Section 28 when it passed the Ethical Standards in Public Life etc (Scotland) Bill on 21 June 2000.

18. Since the repeal of section 28, local authorities have not been bound by the prohibition of the promotion of homosexuality.

19. On 3 June 2004, the Scottish Parliament agreed by Legislative Consent Motion to the inclusion of Scottish provisions in the UK wide Civil Partnership Bill. This meant that, for the first time, same sex couples could register their partnership and have rights and responsibilities similar to different sex couples in marriage.

20. While this was a significant advance, it was argued that civil partnerships perpetuated discrimination against same sex couples because it was viewed by some as 'marriage lite'.

21. Ten years later, on 4 February 2014, the Scottish Parliament passed the Marriage and Civil Partnership (Scotland) Bill providing equal marriage for same sex and different sex couples.

Education and Skills Committee and the Equalities and Human Rights Committee

22. The Education and Skills Committee conducted a short inquiry on Personal and Social Education. The report, Let's talk about personal and social education (22 May 2017) said:

“In terms of core issues, Sex and Relationships Education (“SRE”) is essential and must feature. To be effective this means SRE which goes beyond the biology and involves talking about sex and relationships (not just watching videos and reading leaflets as is the case in some classes). The Committee received concerning evidence that for some young people, particularly LGBTI young people, sex education comes from the internet, including pornography, due to a lack of adequate provision within school. It should be noted that the Committee received a particularly high volume of written evidence on the issue of LGBTI-inclusive education, or the lack thereof.”

23. Other priorities were that the issue of consent is not considered consistently in SRE, and that SRE should be more inclusive and not just focus on heterosexual relationships.

24. The Equalities and Human Rights Committee conducted an inquiry on prejudice-based bullying. The report, It is not Cool to be Cruel (6 July 2017) included the following recommendation:

“Given the evidence we received about children as young as 12 years old being coerced into sexual activity, we ask the Scottish Government and education authorities to ensure that consent and healthy relationships be taught from the
beginning of primary school in an age appropriate manner to safeguard children.”

25. The two committees held a joint debate on their reports on the 15 November 2017.

Action

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

- To write to the Scottish Government seeking its views on the action called for in the petition.

- To close the petition under Rule 15.7 of Standing Orders on the basis that the Scottish Government is committed to have LGBTI inclusive education embedded in the curriculum.

- To take any other action members consider appropriate.

SPICe/Clerk to the Committee
Petitioner: Sarah Takahashi

Petition summary: Calling on the Scottish Parliament to urge the Scottish Government to update the Sexual Offences (Scotland) Act 2009 to include the offence of a man being raped by a woman.

Webpage: parliament.scot/GettingInvolved/Petitions/PE01773

Introduction

1. This is a new petition that collected 111 signatures and 1 comment in support.

Background

2. The petition seeks a widening of the definition of rape to cover situations where a woman ‘rapes’ a man. Whilst acknowledging that other offences may be used to prosecute such behaviour, it suggests that not including it within the offence of rape fails to acknowledge its seriousness.

3. In relation to sexual abuse, the website of Abused Men in Scotland states that:

   “Under the criminal law in Scotland, a man can only be raped by another man. Non-consensual intercourse between a man and a woman (where the man does not consent) would be defined as a ‘sexual assault’ or ‘sexual assault by penetration’ depending on the circumstances. Despite these different definitions, any kind of sexual assault can have equally devastating consequences.”

4. Relevant offences are set out in the Sexual Offences (Scotland) Act 2009 (‘the 2009 Act’) and are discussed below.

5. The petition also expresses concerns about the stigmatising of, and a lack of support for, male victims. The Scottish Government guide Rape and Sexual Assault: Support notes that:

   “It may be difficult for men to talk about what has happened because of the common view that men should be ‘strong’ and able to protect themselves.”

6. It goes on to list organisations that may be able to help male victims.
Sexual Offences (Scotland) Act 2009

7. Section 1 of the 2009 Act created a statutory offence of rape, replacing the previous common law offence. In doing so, it made some significant reforms, including extending the range of actions covered:

- the common law offence of rape required penile penetration of the victim’s vagina
- the 2009 Act broadened the definition of rape to include penile penetration of the anus or mouth of a victim of either sex \(^1\)

8. Thus, the offence of rape was widened but still involves penetration by a penis. The 2009 Act defines penis and vagina as including surgically constructed ones.

9. The question of whether the definition of rape should be further widened to cover penetration with an object was considered during scrutiny of the Sexual Offences (Scotland) Bill. For example, see the policy memorandum (paras 42 to 48) and the Justice Committee’s stage 1 report (paras 59 to 63).

10. Other offences created by the 2009 Act include sexual assault by penetration (section 2) and sexual assault (section 3). Sexual assault by penetration covers situations where the offender penetrates sexually the victim’s vagina or anus. Penetration may be by part of the offender’s body (e.g. finger) or something else.

11. The statutory offence of sexual assault covers various types of conduct which a reasonable person would consider to be sexual.

12. There is a large element of overlap in the types of behaviour covered by the three statutory offences. Most of what is covered by rape is also covered by sexual assault by penetration; and everything that is covered by sexual assault by penetration is also covered by sexual assault. The intention behind this is to avoid difficulties in prosecuting cases where what exactly happened may not be wholly clear. It will be for the prosecution to select the most appropriate charge (e.g. where there is clear evidence of rape the appropriate charge would be rape, rather than one of the other offences).

13. On introduction, the Sexual Offences (Scotland) Bill did not include the offence of sexual assault by penetration. However, concerns were expressed that relying on the broad offence of sexual assault to prosecute penetrative sexual assaults with objects failed to clearly label them as potentially some of the most severe forms of sexual offence. This led to amendments being passed adding the offence of sexual assault by penetration. There was some debate on whether the additional offence should be described as a form of rape (e.g. to help emphasise the seriousness of the offence), but wording which does not use the term rape was agreed to.

14. The offence of sexual assault by penetration, unlike the offence of rape, does not cover penetration of the victim’s mouth. It was argued that including penetration of

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\(^1\) Under the previous common law, penile penetration of the anus or mouth could be prosecuted under other offences such as indecent assault.
the mouth would extend the scope of sexual assault by penetration to include less serious behaviour, contrary to the purpose of labelling particularly serious forms of sexual assault.

15. Where prosecuted in the High Court, the maximum custodial sentence for all three of the above statutory offences is life imprisonment. Rape can only be prosecuted in the High Court. Sexual assault by penetration can also be prosecuted under solemn procedure in the sheriff courts. In such cases, the maximum custodial sentence is five years. Sexual assault can be prosecuted under both solemn and summary procedures. Where prosecuted under summary procedure in a sheriff court, the maximum custodial sentence is 12 months. These differences are intended to reflect the seriousness of the offences and the broad range of behaviour covered by the offence of sexual assault.

**Action**

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

- To write to the Scottish Government seeking its views on the action called for in the petition.

- To write to key stakeholders to seek their views on the action called for in the petition. Stakeholders may include Abused Men in Scotland; Crown Office & Procurator Fiscal Service; Law Society of Scotland; Police Scotland and Rape Crisis Scotland.

- To take any other action members consider appropriate.

**SPICe/Clerk to the Committee**
Public Petitions Committee

2nd Meeting, 2020 (Session 5)

Thursday, 30 January 2020

PE1777: To introduce British Sign Language (BSL) into the Curriculum for Excellence

Note by the Clerk

Petitioner: Scott Macmillan

Petition summary: Calling on the Scottish Parliament to urge the Scottish Government to introduce the British Sign Language (BSL) into the Curriculum for Excellence.

Webpage: parliament.scot/GettingInvolved/Petitions/PE1777

Introduction

1. This is a new petition that did not collect signatures and comments.

Background

2. The petitioner is calling for British Sign Language (“BSL”) to be introduced into the Curriculum for Excellence (“CfE”). In the background documents provided with the petition, the petitioner appears to be arguing that schools ought to teach BSL.

Languages

3. While local authorities have a statutory duty to secure an adequate and efficient education for children of school-age in their area, what this education should entail is not set out in legislation. In fact, very little of the school curriculum is statutory.

4. CfE provides a framework for a coherent curriculum for children aged 3 to 18. One of the foundation documents of CfE, Building the Curriculum 3 states that children and young people are entitled to expect a broad general education (“BGE”) from aged three to the end of S3, followed by three years of senior phase where they have the opportunity to gain qualifications.

5. BGE is organised through curriculum areas and under each area are a number of experiences and outcomes (“Es&Os”) and associated benchmarks. Es&Os are statements about children's learning and progression in each curriculum area; benchmarks are intended to provide clarity on when national standards in each area are met. Experiences and Outcomes were drafted to be inclusive to users of BSL.

6. One area of the curriculum is ‘Languages’, which covers English, literacy and Gàidhlig, Gaelic (Learners), modern languages and classical languages. For
hearing pupils, BSL would be a second or additional language. The Es&Os for modern languages do not specify which additional languages should be taught.

7. The Scottish Government’s has a 1+2 policy for learning languages. The Government’s aim is for every child to have the opportunity to learn a second language from P1-S3 and a further modern language from P5-S3. Education Scotland states that “The policy should be fully implemented across the country by August 2021”.

8. During senior phase, most young people in Scotland will take qualifications designed and developed by the Scottish Qualifications Authority (“SQA”). Schools will generally require pupils in S4 to attempt a qualification in literacy, mathematics/numeracy and a science. Beyond that, young people are largely able to choose which qualifications they wish to take. The SQA offers a number of qualifications on BSL.

BSL Act and plans

9. The British Sign Language (Scotland) Act 2015 provides for a duty on the Scottish Government to “promote, and facilitate the promotion of, the use and understanding of” BSL. Ministers must also publish a National Plan, the first of which was published in October 2017.

10. Listed authorities must also produce BSL plans which set out what they will be doing in relation to the use of BSL. The authority plans must also try to be consistent with the National Plan. Local authorities are listed authorities for the purposes of the 2015 Act.

11. The National Plan included the following long-term goal:

“Children and young people who use BSL will get the support they need at all stages of their learning, so that they can reach their full potential; parents who use BSL will have the same opportunities as other parents to be fully involved in their child’s education; and more pupils will be able to learn BSL at school.”

12. Under this goal were listed nine actions to be completed by 2020. One of the actions was to “Instruct Scotland’s National Centre for Languages (SCILT) to lead a programme of work to support BSL learning for hearing pupils.”

Scottish Parliament and Scottish Government Actions

13. As noted above, the Parliament passed the British Sign Language (Scotland) Bill (now an Act) in 2015 in the last session and the Scottish Government has since published its National BSL plan.

Action

14. The Committee is invited to consider what action it wishes to take on this petition. Options include—
• To write to the Scottish Government and Education Scotland seeking its views on the action called for in the petition.

• To take any other action members consider appropriate.

SPICE/Clerk to the Committee