The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 12 January 2016

Session 4

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PUBLIC PETITIONS COMMITTEE
1st Meeting 2016, Session 4

CONVENER

*Michael McMahon (Uddingston and Bellshill) (Lab)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Jackson Carlaw (West Scotland) (Con)
*Kenny MacAskill (Edinburgh Eastern) (SNP)
*Angus MacDonald (Falkirk East) (SNP)
*Hanzala Malik (Glasgow) (Lab)
John Wilson (Central Scotland) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Craig Blackie
Jeanette Findlay (Fans Against Criminalisation)
Murdo Fraser (Mid Scotland and Fife) (Con)
James Kelly (Rutherglen) (Lab)
Paul Martin (Glasgow Provan) (Lab)
Shaheen McQuade
Graeme Pearson (South Scotland) (Lab)
Paul Quigley (Fans Against Criminalisation)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Public Petitions Committee

Tuesday 12 January 2016

[The Convener opened the meeting at 10:01]

Decision on Taking Business in Private

The Convener (Michael McMahon): Good morning, everyone, and welcome to the first meeting in 2016 of the Public Petitions Committee. I wish any colleagues I have not seen before today a happy new year.

Jackson Carlaw (West Scotland) (Con): Once more with feeling, convener.

The Convener: Yes. That might be the last time that I say that.

We have received apologies from John Wilson, who told me that he has to be at another event this morning.

Agenda item 1 is to seek the committee's agreement to take in private agenda item 4, which is on witness expenses. Do members agree to do that?

Members *indicated agreement.*

New Petitions

Group B Streptococcus (Information and Testing) (PE1592)

10:02

The Convener: Our next item of business is consideration of three new petitions. We will take evidence on two of them from the petitioners.

The first new petition is PE1592, by Shaheen McQuade, on group B streptococcus information and testing. Members have a note from the clerk, the petition, a Scottish Parliament information centre briefing and submissions from Shaheen McQuade.

I welcome Shaheen to the committee. She is accompanied by Craig Blackie. I invite Shaheen to speak to her petition, after which we will discuss the issues that she has raised. Over to you, Shaheen.

Shaheen McQuade: My son Zach is the reason why I am here today. I am here to explain my reasons for setting up a petition to raise awareness of and get better testing for group B strep.

In December 2014, I discovered that I was pregnant. My fiancé, Craig, and I were delighted. At the time, we were both smokers, and we occasionally drank alcohol. As soon as I discovered that I was pregnant, we both stopped smoking and gave up alcohol in order to give our baby a healthy start in life. In addition, I did research on all foods that are harmful to unborn babies and took pregnancy vitamins. I did all that to protect my unborn baby and give him the best possible start.

I had a trouble-free pregnancy, and I worked until I was eight and a half months pregnant without a single day off due to sickness.

My waters broke while I was at home. I informed the hospital, which advised me to go over to be checked, which I did. The midwife advised me that she would not bother swabbing me, as she could see that my waters had broken. I was sent home, and my contractions started after only a couple of hours. I went back to the hospital and was told that I was in labour. Eight and a half hours later, I gave birth to my beautiful, healthy son, Zach. We were kept in overnight and let home the following day.

For the next two weeks, my son continued to grow into a happy, healthy and content baby. I could not believe how lucky I was, as he never cried other than when I changed him or when he was hungry.

My family and friends were amazed at how often he smiled, as newborn babies tend to just sleep. My health visitor commented that she had never seen a healthier baby.

On 14 August, when Zach was 12 days old, he was unsettled, which was unusual for him. Over the next few hours, he became worse, so I called an ambulance. He was rushed to hospital with a high temperature, and the doctors worked frantically on him. A few hours later, Craig and I were given the devastating news that he had bacterial meningitis and would probably not survive. He was then transferred to Yorkhill hospital. Sadly, he passed away at 3 pm on 15 August.

I cannot begin to tell the committee how heartbroken Craig and I and our immediate families are. Zach was the first grandson in Craig's family and the first grandchild for my parents.

In a follow-up meeting with the consultants at Yorkhill hospital, I was horrified to discover that Zach had developed meningitis due to contracting group B strep during my labour. I had never heard of group B strep, and it was not discussed or tested for at any point during pregnancy or labour.

I have lost where I am at.

The Convener: It is okay. Just take your time.

Shaheen McQuade: I have since discovered that group B strep can be identified by carrying out a simple swab test, which, I understand, costs £11. Had I been tested after my waters had broken, I would have been given antibiotics, which would almost certainly have prevented the risk of my baby contracting group B strep.

I have read the United Kingdom national screening committee's report from 2012, when it was decided not to screen all pregnant women for group B strep. Instead, a risk-based strategy has been used to decide who should be tested. Women are tested only if they show symptoms such as protein in urine, waters breaking early or a high temperature in labour. I had all those signs, but they were never picked up. Does that not suggest that the approach is not working and needs to be changed immediately? Part of the reason for the approach is that the test is not 100 per cent reliable. Why is funding not being set aside to produce a more reliable test? That suggests to me that there is more of a let's-just-take-a-chance attitude.

The decision cost my son his life and Craig and me our future. It denied our parents and families the love of a grandson and a nephew.

Millions of pounds are spent on educating women about the dangers of smoking and drinking alcohol during pregnancy. I took all that very seriously and ensured that I did not smoke or drink alcohol. The national health service did not do the same for my son. Zach was not given the right to live, and I have been denied the right to have my son in my life and watch him grow up. Instead, I have been sentenced to a lifetime of heartache.

To lose a baby is devastating; to know that that could have been prevented is torture. The situation has to change.

The Convener: I thank you very much for giving evidence, Shaheen. That was very courageous of you. On behalf of the committee, I extend our sincerest condolences for the loss of your child.

I know that you have worked very hard with organisations that have looked into the matter. The committee has looked at the issue before, and we were given the same information: that a review and investigations are taking place. We closed a petition in 2014-15 because we expected a report to come in front of us. The timescale for that might have been around 18 months. In that time, a tragedy has befallen you and your family for the sake of £11.

You said in your evidence that the signs that are looked for, which would have indicated the need to give you an antibiotic, were there. What is your view or the view of the organisations that you have worked with on the decision not to test people or inform people that a test is available?

Shaheen McQuade: I think that that is neglect. The NHS took a gamble with my son's life and it lost. I showed the symptoms of group B strep. At the time, I did not know what it was, and I did not know what the signs of it were. My son picked it up, and nothing could have been done once it had triggered inside him, as he had no immune system. He was only 12 days old, and his body was too small to fight the infection. He lost his life because of that.

The Convener: From the investigations that you have done since the tragedy, do you think that the staff who were there—who I am sure did a very good job; I have never heard you complain about the way that you were treated by the staff—were aware that they should have been looking for those signs to check whether something needed to be done?

Shaheen McQuade: The NHS works on a risk-based strategy. When a woman is showing those symptoms, she should be tested. I think that I should have been tested. I have been trying to arrange a meeting with the midwives to talk to them about my care from when my waters broke until they let me and Zach go home from the hospital.

The Convener: Okay. I open up the discussion to other members of the committee who have questions.

Hanzala Malik (Glasgow) (Lab): Thank you for your evidence. The suffering that you and your family have gone through has touched my heart. I just want to make sure that I have picked up correctly the point that you are trying to make. You would like the test to be done automatically, simply because staff members do not pick up the condition, and you want to make sure that nobody else suffers in the way that you have.

Shaheen McQuade: Yes. I do not want any other parents and families to suffer what we have had to go through.

Hanzala Malik: I do not know what the NHS's position would be on the matter aside from the fact that there is a financial implication, although I tend to agree that it would be a very small price to pay to make such a huge difference to people's lives and their quality of life.

The Convener: I am not the greatest mathematician in the world, but it does not take a genius to work out the overall cost. As the cost of the test is £11 per birth and there were approximately 55,000 births in Scotland last year, the figure—even if not every mother were to take the opportunity to have the test—would be somewhere between £500,000 and £600,000. That money could be spent on saving a number of lives. Do you think that that is a price worth paying?

Shaheen McQuade: Definitely. If you calculate how £11 compares with the cost of Zach's care when he was taken to hospital, which covered ambulances, the trip from Wishaw general hospital to Yorkhill hospital, brain-monitoring equipment and brain scans, and all the antibiotics that he was on, it is clear that a test would actually save the NHS money.

Angus MacDonald (Falkirk East) (SNP): I note from our briefing that several parliamentary questions were asked on 19 November last year by Jim Hume MSP. He received a response from the Scottish Government that stated:

"As there is currently no recommended test for group B streptococcus that would be suitable for routine antenatal screening no cost-benefit analysis has been carried out by the Scottish Government."—[*Written Answers*, 25 November 2015; S4W-28599.]

The SPICe briefing also notes that the Scottish Government already refers to group B streptococcus in the "Ready Steady Baby!" booklet, which is currently being reviewed with a revised section due to be published at the end of this month. Did you receive that booklet?

Shaheen McQuade: No. After Zach passed away, I got in touch with the group B strep support group, and they advised me that Jackie Watt had brought a petition to the Parliament in 2014 to get more information into the "Ready Steady Baby!" booklet. I had never heard of that booklet, and I was never given it by a midwife. As far as I know, it is an online booklet.

Angus MacDonald: It was never referred to.

Shaheen McQuade: No.

Angus MacDonald: Which health board covers your area?

The Convener: It is NHS Lanarkshire.

Hanzala Malik: I know that we are talking about figures and costs, but I do not think that those are relevant or what the committee should be worrying about. If we carried out more tests, the costs would reduce anyway. The more important issue is that we need to pick up people who are vulnerable. If that is on a checklist, it will get done; if it is not on any checklist, it is not going to get done. It is clear that it was not done in this case even though the patient needed to receive the medication.

The issue is about what checklists are available and who does that work. We need to make sure that those things are in place. We spend billions of pounds on so many other things and we are talking about someone's life, so I do not think that cost is entirely relevant.

10:15

The Convener: I am looking for suggestions as to how we should take the petition forward.

Jackson Carlaw: It is clear from the briefing that the committee and Parliament have a long track record of raising the issue with the Government, but the collective tone of the responses seems to be underpinned by a lack of urgency in finding a way forward.

We should write to the Scottish Government with some specific commentary, not just asking for a reaction to the petition. I am interested in two points that the petitioner has made. First, I would like to know how the "Ready Steady Baby!" booklet is made available. Saying that there is a booklet suggests that some publication is handed out along with advice, but that is clearly not the case. If it exists online, who is responsible for directing potential parents' attention to it? Is there any knowledge or evidence of how many people access that publication or any follow-up to establish whether that has taken place?

Secondly, although it is difficult to incorporate the powerful testimony of our witnesses, I would like to see that done because, while there was a tremendous personal loss in the death of their son, Zach, there was also a financial cost, which has been detailed. It is very easy to set that to one side when someone says that it would probably cost £500,000 to test at all deliveries.

We are at the end of the parliamentary session, so it is difficult for us to schedule meetings with ministers to take evidence. Instead, we should write a direct letter that says that it is clear that this has gone on for some time and we have not really advanced matters. To keep being told that there is a review and that things "might" or "could" happen seems to me to fall short, given that, with a bit of will behind the effort, we could do something to resolve the problem.

The Convener: That is my feeling. Shaheen McQuade is my constituent, and I have met her to talk about the circumstances. She is well versed in the arguments around the issue. One of the strongest arguments is that the testing is done in other countries and has been proven to be successful. I do not know why we appear to be—to use the vernacular—swinging the lead when it comes to making progress on the issue. People are hiding behind arguments such as that there is no particularly good test. If that is the case, we should invest money in finding a test that we can be sure works properly.

Are we investing enough in training to ensure that staff are adequately aware and can identify when there are signs that a test should be done and an antibiotic administered? We must make sure that action is taken, because, while we have been waiting on a review taking place, Shaheen McQuade and, no doubt, other people have suffered tragic loss that could have been avoided. If the committee says anything at all, we should say that that is not acceptable.

We should write to the Government, asking what action it is going to take. We cannot sit any longer, waiting on reviews; we need to see what definitive action is going to be taken. We should take evidence from other countries and do what they do, because the test is working in those other countries and could be made to work here. Do members agree to that?

Members *indicated agreement.*

Angus MacDonald: Convener, you say that the test is working in other countries. Given that the petition will remain live, can we ask the Scottish Parliament information centre for some information about what countries it is working in?

The Convener: We can do that to back up the petition.

Again, I thank Shaheen and Craig for coming along. You have suffered a terrible loss, and it is courageous of you to use your personal experience to try to help other people. We appreciate the fact that you have done that.

Shaheen McQuade: Thank you.

Craig Blackie: Thank you.

The Convener: I suspend the meeting while the next petitioners come to the table.

10:20

Meeting suspended.

10:22

On resuming—

Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 (Review) (PE1593)

The Convener: Our next petition is PE1593, by Paul Quigley on behalf of Fans Against Criminalisation, on a full review of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. Members have before them a note from the clerk, the petition, a SPICe briefing and a submission from the petitioners.

I welcome Graeme Pearson and James Kelly to the meeting. We also expect to be joined by Paul Martin and Jackie Baillie. Jackie Baillie and Cara Hilton have sent letters to the committee to express their support for the petition. In the email that John Wilson, who is a member of the committee, sent me to make his apologies, he said that he supports the petition.

Mr Quigley, you have a few minutes to introduce the petition before we discuss the issues that you raise.

Paul Quigley (Fans Against Criminalisation): Thank you for the introduction, convener, and thanks to everyone for having us here to discuss the petition and share our concerns about the 2012 act. I will give you a quick overview of who we are and who we represent. We are members of Fans Against Criminalisation, which is a protest group that began in 2011 to oppose the introduction of the legislation. We have since campaigned against it while helping people who have been charged under it and collating our own evidence about those cases.

I make the point that our petition does not defend sectarianism. We are not here to defend any hate crime. However, we note that sectarian behaviour, racist behaviour, homophobia and sexism were all covered by previous legislation. Our point of contention with the act concerns its offensive behaviour provisions, which create a new law that criminalises offensiveness. The difficulty with that is the fact that, obviously, offensiveness is subjective. What committee members might find offensive I might not, and vice versa. Therefore, the law becomes practically impossible to police, which creates a blurring of what is legally acceptable.

The impact of that is that young men and girls, primarily, are being arrested at football matches. The University of Stirling report showed that the court cases go on for far longer than normal court cases do but that the conviction rate remains shockingly low—and people's lives are ultimately ruined in the process.

We object to the fact that the 2012 act specifically discriminates against football fans. It is a law that applies only to one, demonised, sector of society. We disagree with the law on that basis.

The specific reason for the petition is that we feel that the Scottish Government has reneged on its promise to fully review the act, which should have been done in 2015. What was produced as the review was consideration of one piece of evidence—a report by the University of Stirling—which we contend was selectively quoted. For example, it was not mentioned that that piece of research showed that, because so many resources had been diverted to policing offensiveness, there had been a rise in violence at football games. The research also showed that many judges had significant concerns about the human rights implications of the 2012 act because of its curtailment of freedom of speech and of political expression. Those issues have still to be properly reviewed. Another piece of evidence was an opinion poll that YouGov carried out, which we felt was somewhat skewed.

In 2011, an attempt was made to rush through the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill as emergency legislation. However, the then First Minister said that he wished to build consensus on the bill. Five years on from that, all that remains is a consensus of opposition to the legislation. Every Opposition party in the Parliament, as well as independent MSPs, voted against the bill. As far as I am aware, none of them have changed their minds on the matter. There are still concerns about the legislation among lawyers, judges, civil rights groups, football fans and football clubs.

The problem is that people have not been given ample opportunity to present evidence in a review process to show why they are against the 2012 act. We have heard about just one side of the legislation. The continued controversy surrounding it and the incredibly low conviction rate in cases that are brought under it demonstrate that it is not working. It is now clearly in the public interest to have a full review of the act and give the different stakeholders the opportunity to input into that process. We would want to be part of that, with a view to having the act ultimately repealed.

The Convener: Thank you very much for introducing your petition. I will start by asking a question about the understanding of how the act has been implemented. FAC was set up at the outset, and a lot of the media coverage and general discussion about the legislation has said that the issue relates only to Celtic and Rangers. However, I understand that, as time has gone on, more and more football fans groups have joined or supported the FAC campaign. Is that correct?

Paul Quigley: Yes. Even at the start, fans held protests about the legislation in stadiums across the country. For example, fans of Celtic, Rangers, Motherwell, Hearts and Hibs—and even fans of the Scotland team—all held demonstrations against the 2012 act in stadiums. More recently, we have seen a bit of an upsurge in fans of other clubs taking an interest in the legislation—particularly fans of Hamilton Academicals and Motherwell, who have been the subject of disgraceful behaviour as a result of the legislation. Those two groups of fans, as well as Rangers fans, have begun to join our campaign against the legislation.

The campaign is not about Celtic and Rangers fans and it is not about sectarianism either; it is about something that affects all football supporters. That is why we have brought our petition here.

The Convener: We have talked about the reason why the act was introduced. However, recently—as recently as yesterday—MSPs have lodged motions that have tried to explain that the rationale for the legislation is somehow about protecting the Irish community and the Catholic community from sectarianism and offensive behaviour. Does FAC have an opinion on that?

10:30

Jeanette Findlay (Fans Against Criminalisation): That proposal was put forward by John Mason MSP, who has repeatedly claimed that the act is primarily about defending Catholics and the Irish community against abuse. As far as I am aware, he is the only person in the Parliament or in the entire country who is making that claim, and he makes it on the basis of no evidence whatsoever. We are at a loss to understand how he can make that claim and why he continues to repeat it. I am not aware of any Catholic organisation, including the Catholic church, or any Irish community organisation that agrees with the claim or with the legislation or which has asked for such protection.

We—I speak now not for FAC but as a member of the Irish community and a Catholic—are indeed primarily the victims of sectarianism and racism. The most recent figures show a 14 per cent rise in offences against "other whites", which I believe are the Irish and the Polish. It is not to say that that is not an issue, but we simply do not agree that the

act contributes in any way to resolving that problem.

The Convener: In his opening comments, Paul Quigley mentioned the interpretation that has been put on the research that the Scottish Government did. When the Scottish Government reported to Parliament some months ago, the Minister for Community Safety and Legal Affairs, Paul Wheelhouse, claimed that in discussions you had endorsed elements of the action that the Scottish Government is taking, particularly on rehabilitation. Will you clarify what discussions took place and your view on that?

Paul Quigley: If you do not mind, I will pass that question to Jeanette Findlay, because I was not at the meeting with Paul Wheelhouse.

Jeanette Findlay: We had a meeting with Paul Wheelhouse before the ministerial statement was made—maybe a fortnight before it—and we made it clear that we were entirely opposed to the act. As part of that, we pointed out that it was primarily criminalising young men who would otherwise have no contact with the criminal justice system.

Mr Wheelhouse specifically asked us whether we would assist him in spreading the message to young people to divert them from such criminal activity. We pointed out that we were completely unable to do that as we did not think that what they were alleged to have done amounted to criminal activity. We rejected the idea that, for example, singing a song in support of Irish independence or wearing a T-shirt that calls for a free Palestine is in itself a criminal offence, so we said that we would be unable to call for young people to desist from doing that.

Mr Wheelhouse's statement that we support his diversion from prosecution scheme was entirely false. We had been advised that he was going to make the statement and, immediately prior to the meeting, we told his adviser that Mr Wheelhouse should not make it, because we do not support the scheme. He went ahead and made the statement. Thereafter, we wrote to him and said, "You've made this statement. We told your adviser that we do not support the scheme. At no time did we say that we support it. Please retract the statement that we support your scheme." He failed to do so.

The Convener: You have done a lot of research on the pieces of legislation that have been enacted on the issue. There have been reviews of legislation. Have you analysed the type of review that is usually done when legislation has to be reviewed and compared that with what has been claimed as a review of the 2012 act?

Paul Quigley: I do not think that we have any specific examples of legislation that has been reviewed. Our understanding was that the review would be similar to the process when the bill was considered, which allowed stakeholders to submit evidence and included some people being invited along to the Justice Committee, which dealt with the bill.

Our understanding was that, at the very least, we would have an opportunity to air our concerns, given that we have been the primary opposition to the act over the past four years. We have vocally opposed it and we have collated quite a bit of our own evidence, so we assumed that we would have the opportunity to submit that in some form. We were not given that opportunity. Given the amount of opposition and the number of stakeholders who remain opposed to the act, we feel that some form of review that would allow them to submit their evidence—rather than taking just one piece of evidence, as the review in 2015 did—would give a more all-encompassing picture of what the act does.

Jeanette Findlay: It is important to note that the authors of the single piece of evidence that the Government relied on issued two statements to say that, whatever they were doing, it was not the review. It was an evaluation that they understood would inform and contribute to a review, but it was not the review itself. The authors made it clear that they were not reviewing the act; in fact, they specifically said that the evidence that they provided was not in support of or in opposition to the act. They were simply reviewing all the evidence on it, as they were commissioned to do by the Scottish Government.

Even if the Scottish Government was to rely solely on that piece of evidence, if it had taken that evidence in its entirety, the Scottish Government would have been able to point out certain things. It would have pointed out that, as Paul Quigley said, the police gave evidence that they are concerned that, while they are putting resources into policing offensiveness, violence away from football grounds, which has been in long-term decline, is starting to pick up a bit. The police cannot deal with that because they are policing offensiveness.

The Government would have pointed out how few successful prosecutions there have been, as that was also in the report, and it would have pointed out the strong opposition among some sheriffs. Some sheriffs are in favour, but most of those who are in favour support the act's alleged objectives rather than how the act has been framed and implemented.

The Government would have pointed out that sheriffs are really concerned about what constitutes offensiveness. It would have pointed out that, when the researchers surveyed stakeholders and asked what kind of offensiveness they observed or experienced, the overwhelming majority said that it was swearing at opposition players and management, followed by

swearing at opposition fans. The Stirling research showed that, when we ask football fans what offensiveness they encounter, they say that it is swearing.

The Convener: I have one more point before I open up the discussion to committee members. Have you spoken to people who were interviewed by the University of Stirling about the review and their awareness of what was being undertaken?

Paul Quigley: We understand that the researchers did not think that the work would be the review of the act. As Jeanette Findlay said, the University of Stirling published statements on its website that specifically noted that the work was not to be taken as a review of the act's success. We met the interviewers prior to the report being released as the review, and they certainly told us that it was not the review and that they were not particularly sure how the review would be carried out. Even at that point, their opinion seemed to be that the work would serve to inform the review rather than make up the entirety of it.

Jeanette Findlay: The team did not interview FAC formally as part of the process until after the interim report had been produced. The report indicated that somebody from the team had spoken to me. That happened early on, but it was in connection with my professional role. I was never told that I was being interviewed or spoken to in relation to a piece of research that was commissioned by the Government. I had a discussion with a research student who, as it turned out, was part of the team, but she did not indicate to me that the discussion was part of that research. Later, the team relied on that as being the discussion with FAC, but it was not. In the end, we had some discussion with the team, but it was after the interim report was produced.

The Convener: For the record, I was also interviewed by Stirling university's team. I was not told the purpose of the interview in advance and I discovered only later that I had been interviewed for what then got called the review.

At the time that that piece of academic work was being pursued, it did not relate to a review of the legislation. I am not saying that I feel conned in any way. I gave the same answers as I would have given if I had known the purpose in advance. However, I did not know until after the interview that I had taken part in what was subsequently called the Scottish Government's review of the act. I do not believe that that is a particularly good way to conduct business.

I open up the session to committee members to comment on the points that have been raised.

Jackson Carlaw: Surprisingly, only the federal Parliament in Switzerland has written into its articles a statutory obligation to conduct post-legislative scrutiny of the legislation that it passes. Although there is an opportunity to do so in this Parliament, actually very little legislation is scrutinised. Consequently I have come to the view that that should become much more apparent on the face of many of our bills. Therefore I am supportive of the aim to undertake a review. However, having agreed to that proposition, I have not necessarily prejudged what the outcome of that review would be, whereas you say that you would want it to have a specific, direct objective. I support the idea in principle because I think that it is a healthy thing for Parliaments to do, particularly on legislation that is designed to change social attitudes.

I have two specific questions that I am interested to see whether you can help me with. You refer to the 22 per cent conviction rate. Of those convictions, what were the worst offences and what were the sentences that were received on conviction? Do you know?

Jeanette Findlay: It is not possible from the Government figures to answer that question very directly, but I will do it as best I can. The 22 per cent rate is not a Government figure. We have taken all the charges across the whole lifetime of the act and the number of convictions and shown one as a proportion of the other.

We have had discussions with the statisticians who work on this, and what the Government quotes as conviction rates are not conviction rates as we would understand them, which would cover, in any one period, how many people have been charged and what proportion of those have been convicted.

As Paul Quigley has already pointed out, the timeframe that it takes for a case to go through the courts does not correspond with the reporting period of the stats. That is a complicated way of saying that the statistics that the Government quotes are low, but in fact the statistics are even lower because it is the more difficult cases and the ones that are likely to result in a not guilty verdict that take the longest. That is why we are saying that the rate is 22 per cent.

You asked what the worst offences were. The Government statistics are divided up under the various elements that are mentioned in the act. The offence could be homophobia, racism or whatever it might be. Then there is an "other" category. The "other" category is, as I understand it, generally held to be support for what the Government calls terrorist organisations. As we understand it, that category is the only set of behaviours that would not otherwise have been covered by existing legislation. It is quite a small part; I think that in the last set of figures or the set before that, it was 17 per cent of behaviours, so it is not the majority.

The majority of behaviours for which people are charged—not convicted—are behaviours that they could have been charged with under legislation that existed before the 2012 act. People could have been charged with racism, homophobia and so on potentially under breach of the peace, or with religiously aggravated charges under section 74 of the Criminal Justice (Scotland) Act 2003.

People get a range of sentences. I think that there were only two prison sentences, which happened early on. The rest of the sentences have been community service orders, football banning orders and that type of thing. In a number of cases, there have been absolute discharges so there was no sentence whatsoever.

10:45

Paul Quigley: Jeanette has referred to the "other" category of cases, and those are likely to include instances involving swearing, as has been referred to. Quite a lot of Motherwell and Hamilton fans were jailed at a derby match for swearing at opposition fans. When we refer to the things that might happen at clubs not including Celtic or Rangers, those instances would come under that "other" category, too.

Jeanette Findlay: It would be helpful for the committee to understand precisely what we mean by that. The two fans we are referring to are 18-year-olds who were chanting, "Well, Well, F your Well"—I will not say the full word. It was a Friday night game, and the Monday was a bank holiday. They were held in Greenock prison—not in a police cell—from Monday night to Tuesday morning, and they were charged under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 for something that most of us would have thought merited no more than saying, "Come on, boys, mind your language."

Jackson Carlaw: Thank you for that. That was comprehensive and very interesting. That suggests that there is a slight lack of clarity in all this.

You are here representing Fans Against Criminalisation. I sometimes have a slight worry that things get rolled into a large basket of anecdotal evidence—"It was said by", or, "I have heard that". I am interested to know what direct personal experience you have had as individuals of the 2012 act.

Paul Quigley: There has been a complete change in the culture of the policing regarding how football fans are treated as they go to a football match. That means that someone does not necessarily have to be dragged out of a stand, or dragged out of their bed to go into a police station, to feel the effects of the act. There is an increased police presence most of the time, which is entirely unjustifiable. I have experienced situations where fans have been filmed from the moment they get off the supporters bus, at whatever ground in the country it might be. That goes on throughout the game and then afterwards. Fans are stopped and searched.

Celtic played the French team Rennes—I cannot remember what year that was, but it was when the act was coming into play. There was an increased police presence. I was standing in the square in Rennes, with Celtic fans. A police officer came up and asked me, "How are you doing, Paul? How are you getting on at university?" It seemed like a direct attempt to intimidate me, to show that they had collated evidence or information about me. It was almost like the officer saying that the police were keeping an eye on me, so I had better behave myself—in spite of the fact that I had never been in trouble with the police and had never found myself charged or arrested or anything of that nature.

My own experience pales into insignificance compared with what other people have faced. I am sure that Jeanette can fill you in about some of the direct things that we have faced when trying to protest against the act, for example at the Scottish National Party conference in Aberdeen. I will let her fill you in about that.

Jeanette Findlay: In terms of direct experience, like Paul, I have not been charged under the 2012 act or indeed under any other act. As you can clearly see, I am a middle-aged woman, and I travel to the football with other people, some of whom are sitting behind me, and some of whom—they will not mind me saying—are even a bit older than me. In no other context of my life am I treated in the same way as I am treated as a football fan. As soon as I become a football fan, I am filmed, stared at and searched. I was travelling on Sunday, and the bus was searched twice.

The attitude of police officers is very dangerous, I think. It will not provoke a reaction in me, because that is not how I am, but it is intimidating and provocative. This is the most dangerous thing: the act has created a very poisonous relationship between the police and young fans. That is in nobody's interest.

The police have been using other legislation against us. We have been prevented from protesting; we have been intimidated while protesting. We have had at least seven police complaints upheld. In one case, 19 of us went to Aberdeen to lobby—quite legitimately—outside the SNP spring conference. We were immediately served notice under, I think, section 12 of the Public Order Act 1986. Other groups that were protesting, including trade union groups, which had much larger numbers, had no difficulty

whatsoever. That day, the age range of our protesters went from seven to 73.

The police subsequently apologised and said that that should not have happened. We were followed from Glasgow to Aberdeen by people from the football intelligence unit. There was no football match that day; we were followed simply because we were going to protest against the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

When I and a colleague have gone to court to take notes when offensive behaviour cases are being held, we have been intimidated and harassed inside the court rooms. I understand what you are saying about anecdotal evidence, but we are carefully collecting evidence. We have a contact form and an information form on our website, which we ask people to fill in. We follow up and attend cases, we take detailed notes, and we analyse the Government's statistics. I would like to think that, although what we are saying could be characterised as being anecdotal, it is no more anecdotal than collecting evidence from focus groups, which is what the Stirling evidence was.

As someone who has followed football for decades, I can honestly say that I never noticed the police before the act came in. They were clearly there carrying out their duties and making sure people were safe. However, if you asked me how many police were at a given game or what they were doing, I would have been unable to tell you, because I do not remember ever paying any attention to them. It seems to me that that is how it should be.

In the run-up to the act and once it was in force, I found how the police conduct themselves at almost every game to be an ordeal.

Kenny MacAskill (Edinburgh Eastern) (SNP): Mr Quigley, do you accept that there are games, even in the Scottish premiership, where no police are present in the ground?

Paul Quigley: Yes, I would assume that that would be the case.

Kenny MacAskill: Would it not be the case that the majority of premiership games have a limited police presence, because clubs have to pay for the cost?

Paul Quigley: Obviously, some games will be deemed to be of lesser risk, so yes.

Kenny MacAskill: Do you accept that simply using the level of convictions might not be the criterion to use, because that would also have to apply to rape and sexual offences? Would you wish to review or abandon those offences?

Paul Quigley: No, that would be entirely off topic. When you look at more of the evidence, it suggests that, as I said, cases under the act drag on much longer than other cases do. That is what the Stirling report says. Because of the nature of the act, it is difficult to define what offensiveness is. As I have said, that is subjective. If offensiveness is to be criminalised, there will be a low conviction rate.

We oppose the act regardless of the conviction rate—we oppose the idea that what it covers is criminal. However, the conviction rate simply serves to demonstrate that the act does not work.

Jeanette Findlay: If conviction rates are not the correct things to be looking at, you should direct that question to the Minister for Community Safety and Legal Affairs and his predecessor, who both relied on such rates when discussing the policy.

Kenny MacAskill: Historically, it used to be the case—and I think that it still is—that Catholic officers in the Royal Ulster Constabulary and the Police Service of Northern Ireland were targeted for killing. Is that a sectarian matter?

Paul Quigley: I do not see the relevance of that at all.

Jeanette Findlay: We are here to give evidence on the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

Kenny MacAskill: I was asking you a question, Mr Quigley. Is an attack on a Catholic officer in the PSNI sectarian?

Paul Quigley: I do not see how that is at all relevant to our petition.

Kenny MacAskill: It is a perfectly reasonable question to ask. Is it a sectarian act to target a PSNI officer because he or she is Catholic?

Jeanette Findlay: It is a sectarian act to target anyone for anything in a negative way because of their religion. We were handed these passes because we are committee witnesses who are here to talk about a petition on the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. You have raised the issue of murder with us. We were not asked to come here to discuss murder.

Kenny MacAskill: I think that I have got the answer that I wanted, Ms Findlay. I still have a few more questions, if you do not mind, convener.

Do you think that the mother and the family of Ronan Kerr, and indeed other police families who have lost loved ones, might be distressed by what could be described as songs that venerate their killers?

Paul Quigley: What songs?

Jeanette Findlay: What songs are you referring to?

Kenny MacAskill: Songs that venerate dissident republican groups and the provisional IRA.

Jeanette Findlay: Unless you can be specific about what songs you are referring to—

Kenny MacAskill: I have asked you a specific question.

Jeanette Findlay: You have not.

Kenny MacAskill: I have.

Jeanette Findlay: Is there a song that you are referring to?

Kenny MacAskill: It might not be a song—it could be a chant or a statement. I put the question to you, Mr Quigley. Do you think that the families of the likes of Ronan Kerr whose loved one was murdered for being a Catholic officer in the PSNI could be distressed, upset or angered by chants or songs venerating their killers?

Paul Quigley: As far as I am aware, no such song exists. If there were such a song, members of the families affected would be distressed by it.

Kenny MacAskill: What about songs that venerate the killers of British soldiers?

Paul Quigley: Their families may also be distressed.

Kenny MacAskill: I have no further questions.

The Convener: What would you think of a motion in the Scottish Parliament urging the commemoration of the Easter rising when it would lead to your arrest if you were to say the same thing at a football match?

Paul Quigley: That is exactly it. As a result of the act, people are being told that, with the purchase of a match ticket, they lose their right to political expression. I assume that you are referring to the James Connolly issue. There has been an issue with Celtic fans attempting to be arrested for wearing Palestine T-shirts. John Mason has said that fans who wear yes Scotland badges at football matches should be subject to police action. It demonstrates how difficult it is when we start curtailing freedom of speech and, in particular, freedom of political expression.

Jeanette Findlay: Mr MacAskill has raised this issue. It is rank hypocrisy, frankly. Mr MacAskill supports the erection of a statue to somebody who took part in an armed uprising and may well—I do not know what the historical evidence is—have killed a British soldier. He also, quite rightly, wishes to commemorate the 1916 Easter uprising. He says that because he thinks that it will somehow deflect from his hypocrisy in saying that if we—or anybody; I do not say "we" because I do not say that I sing those songs at football grounds—were to sing those songs at a football ground, commemorating exactly the same actions, that would be criminal, whereas Mr MacAskill's views on this would not be criminal.

Although I do not think that that is what Mr MacAskill set out to do, it demonstrates to the committee precisely the problem with the act, which is that it makes criminal for football fans actions that would not otherwise be criminal. That cannot be right. It is certainly right that football fans should be subject to exactly same laws as the rest of society, but actions should not be made criminal that, in other contexts and other places, would not be criminal. The expression of a view is the expression of a view and, quite frankly, the tradition of people expressing views of all kinds—political or otherwise—at sporting events is as long as the history of politics and sport itself.

Kenny MacAskill: Ms Findlay, do you not accept the evidence that has been given by the current Lord Advocate and previous ministers that it is about context? It is about what you do, where you do it and how you do it. Making a political statement at a political gathering is one thing. Shouting something offensive at a crowd, where people could be distressed, is another. Is context not a factor?

Jeanette Findlay: Sorry, but you have just jumped from making a statement at a political gathering to saying something offensive. Which are we talking about?

Kenny MacAskill: It is a question of context, Ms Findlay.

Jeanette Findlay: Let me ask you a specific question, if that is what you are asking me—

Kenny MacAskill: No, actually, Ms Findlay, I was asking the question, if you do not mind.

Jeanette Findlay: I am trying to clarify your question.

Kenny MacAskill: The question—

Jeanette Findlay: To do that, I have to ask you a question.

Kenny MacAskill: Well, you are obviously—

Jeanette Findlay: Okay, let us not bother.

Kenny MacAskill: If you will allow me, I will clarify the question. Do you accept that the Lord Advocate and the appeal court have made it clear that it is about context?

11:00

Jeanette Findlay: The context of the act is that nobody who is offended needs to be there.

Nobody even needs to know that such a statement took place for the behaviour still to be an offence under the act. The context has been broadened to a point where it is impossible for sheriffs or anybody else to make any sense of it. Anything that is said at any time on any subject could fall foul of the act as long as it is in the context of a regulated football match. Is that really the kind of legislation that we want to have in a modern Scotland?

Angus MacDonald: I will touch on more general aspects of the petition. I read the front page of *The Herald* this morning, and it perhaps does not do the argument that you are pushing much good.

The Convener: Could you give us an indication of what it says? I have not read the paper.

Angus MacDonald: Sorry. It refers to Sunday's fourth-round match at Stair Park in Stranraer, where there were some arrests.

The petitioners state in their submission that the act "is unjust and unworkable." However, recent analysis shows that there was a 28 per cent drop in charges reported by the police to the procurator fiscal under section 1 of the act, and the YouGov poll that you referred to that was published in June last year—which I think you said was somewhat skewed—highlighted that 80 per cent support the act, 82 per cent believe that offensive behaviour at football matches is harmful and 73 per cent of respondents who said that they were very interested in football directly support the act.

With those statistics that show that, since the act's introduction, religious crimes, race crimes and crimes in relation to individuals' sexuality are down and there has been a decrease in crimes of offensive behaviour at or in relation to regulated football matches in Scotland, how can you say that the act has not delivered real improvements to date?

Jeanette Findlay: The YouGov poll does not say what you said that it said. For that poll, 1,044 people were interviewed. More than 55 per cent of them had not much interest in football or no interest in it at all, so fewer than half of them had any real reason to understand how the act operates. Those people were asked whether they were in favour of action against sectarianism and they said yes. The poll then asked, "Given that the act is intended to oppose sectarianism, do you support it?" Frankly, if that is not a skewed question, I do not know what is, and I am surprised that the numbers were not higher.

Angus MacDonald: Hang on—73 per cent of the respondents who said that they were very interested in football directly support the act. That is fact.

Jeanette Findlay: No, they say that they support the act because the question is asked in terms of whether they are in favour of action against sectarianism. It is predicated on the view that the act is action against sectarianism, in which case people say yes. I am surprised that the figure is only 73 per cent, because you would expect it to be higher if that was the case, so I do not think that we can really rely on that.

You said that there had been a reduction in convictions. There has been a reduction in charges. The number of charges that are made is entirely within the gift of the police and the Procurator Fiscal Service. We have seen evidence that, where in the past they might have used the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, they have reverted to using other acts. For instance, they might use section 127 of the Communications Act 2003 rather than section 6 of the 2012 act. We have also seen evidence of them using breach of the peace as opposed to the 2012 act.

There has been some movement on what charges the police and the Procurator Fiscal Service use. That is entirely within their gift, so it is difficult to say that a reduction in charges is evidence of anything much.

Angus MacDonald: Fair comment.

I believe that there has been significant investment from the Scottish Government in the diversion from prosecution programme, which was mentioned earlier. Will you expand on your comments on that programme? I am interested to know why you think that it is not working.

Paul Quigley: We have not had any experience of anyone who has been charged under the act and given the offer of enrolling in the Sacro programme to prevent them from going through criminal proceedings. However, we have stated our opposition to the programme on the basis that, as Jeanette Findlay said, we do not think that some of the things that people are being charged with actually constitute criminal behaviour.

I assume that the programme is primarily aimed at young people. We think that taking them into a programme, telling them that they are wrong and trying to teach this sort of behaviour out of them is quite a dangerous thing to do, and we do not agree with it at all.

Jeanette Findlay: On a more practical note, we think that it is an enormous waste of public money to take young people into an expensive programme in order to teach them not to swear.

Angus MacDonald: Okay. It would be good to get some feedback, if we can, on the figures with regard to any success that there has been.

The Convener: Hanzala Malik will be next, and I will then come to the colleagues who have joined us this morning.

Hanzala Malik: Thank you for your evidence. You have been put in a difficult position once or twice, but that is sometimes part of life for a minority, I suppose. A number of people have mentioned percentages, but they mean nothing to a minority, for whom they can be different from the run of the mill. The percentages for an indigenous community or a host community are totally different from the percentages for a minority community.

Given what I have heard so far, I think that the Government needs to demonstrate to all Scots—and I mean all Scots—that none of them is disadvantaged, nobody in the community is targeted and everyone is entitled to equal opportunities under legislation. No one should feel that they are being intimidated by the police or that the justice system is not clear about what charges are being laid against them and how to deal with them. Those are important issues, because no one should ever feel that they are not receiving justice.

Given the evidence that we have taken, I think that the Government has a moral obligation to reassess the act. There is a community out there that feels under threat, under pressure and intimidated, and that should not be allowed. No one in our communities should feel that they are being undermined in any way. I feel strongly and passionately that the Government should be asked to review the act as a matter of urgency. That will send a clear message to everyone in Scotland.

The Convener: Before I come to our colleagues, Jackson Carlaw has a comment.

Jackson Carlaw: I just want to clarify something that I am slightly concerned about. I do not feel qualified to undertake a review of the act this morning, but I feel that we are slightly straying into coming to conclusive views about its effectiveness. The petition calls for a review to take place, and I am mindful that that is where the balance of our discussion this morning should rest.

The Convener: Yes, the petition asks for a review, but the questions have raised issues about why a review would be beneficial. We are entitled to go into that territory to establish why a review might be necessary.

I will take the colleagues who have joined us in the order in which they arrived. Graeme Pearson will be first, to be followed by James Kelly and then Paul Martin.

Graeme Pearson (South Scotland) (Lab): I am grateful, convener. I do not intend to re-rehearse the arguments that have been made this morning. It is a matter of record that I have been against the legislation from the outset, and I think that much of the evidence that we have heard this morning shows why I had reservations.

I will ask a couple of questions rather than make a statement in support of the petition at this stage. The First Minister set up a summit in March 2011 and the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill was introduced in June 2011. Did either of you give evidence as part of that process, or were you involved in contributing to the debate during the period leading up to the introduction of the bill in Parliament?

Jeanette Findlay: Yes, I was involved. I represented the Celtic Trust at the Justice Committee, along with representatives of other football trusts from around the country, including an organisation representing supporters of the national team.

Paul Quigley: I was not involved. Fans Against Criminalisation was formed in the immediate aftermath of that process, and we have not submitted any further evidence.

Graeme Pearson: Did you find that the period that led up to the process of the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill going through Parliament was sufficient to allow consideration of the various views of the general population?

Jeanette Findlay: I do not know how legislation is normally introduced and what process of consultation takes place. People gave evidence at a number of meetings of the Justice Committee, but it was not clear to me whether very much of that evidence, which was overwhelmingly in opposition to the bill, was taken into account. In fact, I can think of no group, other than the police, that was in favour of the bill. It did not seem that the witnesses' views were taken into account. I do not know what normally happens, but I certainly saw no evidence that the concerns that were raised by a number of groups from a wide range of civil society were taken into account when the bill was framed and passed.

Graeme Pearson: Since then, there has been on-going controversy about the existence of the legislation. From your experience of feeding into the system of government—if I can describe it in that fashion—do you feel that there is a process whereby your views can be properly recorded and responded to?

Jeanette Findlay: We are very grateful to have the opportunity to discuss it today. Aspects of the operation of the act and matters relating to protests against it have been discussed by the

Justice Committee—not with our input, but they have certainly been discussed.

When the legislation was passed, it was said that it would be reviewed after two years. Right until the very end, we genuinely believed that that would involve a similar process, whereby we and other people would come to a forum such as this committee and give our views on how the legislation had worked. We were very shocked by what happened. The document was produced, the minister made a 10-minute statement and there was a 20-minute discussion. I think that the general public would have thought, if something was going to be reviewed, that there would be an opportunity for stakeholders to say something about it at that point, and for there to be a consultation. That most certainly did not happen.

What seems odd to me is that we had discussions with the leaders and representatives of all the parties that are represented in the Parliament and they also seemed to believe that that would happen, so it was not just the public—even the insiders seemed to believe that that would happen. It was a great shock to us to discover that neither we nor anybody else would have an opportunity to say something about how the act had played out.

Graeme Pearson: You talked about the impact on the relationship between the public—in this case the fans, as they are described on days of matches—and the police. Have you been able to determine what that impact actually means? Have you been able to gather statistics on the impact that the legislation has had on that relationship, or is that something that you have not been able to do?

Paul Quigley: We have not been able to do that yet.

Jeanette Findlay: I am not sure what you mean by statistics on relationships. I am not sure how you would gather that information, to be honest.

We have had a number of very large public meetings and gatherings. We get numerous emails and we have a contact form so that people can get in touch with us. All I can tell you is that what we are hearing from all of that is that young people who go to football matches now have a very negative view of the police and their role.

I understand that the role of the police at a football match is primarily to ensure that people get in and get away safely, and to manage the traffic. That is what I see as their role. It is clear that, if there is any criminality of any other kind, it is their job to deal with that, but by and large, as I have said before, we have not really observed much of that. That is what the police are there for, but our understanding is that lots of young people now have a very negative view of the police and, for the most part, that has arisen from their experience of them at football matches.

We know that there are other issues with the police around stop and search, which targets young people, as well. If we take that together with their experience of the police at football matches, that is very dangerous. Young people not trusting the police, having a negative view of them and not wanting to engage with them at all is really very dangerous. I think that the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 has produced that.

11:15

Paul Quigley: Jeanette Findlay pointed out that we do not have any collated evidence that can measure that kind of thing, but the national press has covered a few instances of the police having confiscated banners from young fans, having stopped and searched young fans and even having verbally abused young fans. In cases in which we have spoken to those involved, they have not wanted to make an official police complaint for fear of reprisal. That characterises how poisonous and broken down that relationship has become.

Graeme Pearson: In addition to all the things that have been said about the possibility of a review and what it might satisfy, would it be helpful for a review to analyse, as far as possible through public opinion, the impact that the legislation has had on the relationship between fans and police officers?

Paul Quigley: Absolutely—I think that that would be helpful.

Jeanette Findlay: Yes, if the review was properly carried out.

James Kelly (Rutherglen) (Lab): I thank the committee for the opportunity to come to the meeting, which I came to to speak briefly in favour of the petition. I thank the petitioners for the evidence that they have submitted. I want to speak in favour of the petition on behalf of the many constituents who have contacted me in support of it and with concerns about how the act has been implemented.

It is interesting that Mr MacAskill is looking at the petition as a member of this committee, as his department bulldozed the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill through Parliament back in 2011. That was a clumsy political response to a clash between football coaches at the end of an old firm game and the adverse media reports that came from that. That was really what the act came from. I opposed it at the time and said that it was not fit for purpose. From looking at how things have

played out and listening to the detailed evidence that the petitioners have given, it is clear that that is still very much the case.

As Paul Quigley said, the police already have adequate powers to deal with criminal and offensive behaviour around football grounds, and they should use those powers when appropriate.

It is clear that the act has caused a lot of confusion in respect of interpretation among the judiciary. Different actions have been interpreted differently by different judges in different parts of the country, and that cannot be good at all. The act has also caused divisions between football fans and the police.

I was struck by what the petitioners said about the level of police scrutiny. I have followed football since the 1970s and 1980s, and I sense that there was a lot more violence around football matches then. It strikes me that there is now more scrutiny of football fans than ever before, and we must ask why that is happening.

I have indicated that, if I am returned to Parliament in May, I will introduce a bill to seek to repeal the act. In the meantime, the committee could take a huge step forward by supporting the petition and a review, and I urge it to do so.

Paul Martin (Glasgow Provan) (Lab): Like you, convener, I have been a member of the Parliament since 1999. I have received an unprecedented amount of email in support of the petition, and I think that the petition is very fair. That needs to be recognised. It is calling for a review of existing legislation, and it has been put forward in a constructive and positive manner.

My experience, in particular in dealing with Jeanette Findlay, who is a constituent, has been positive in relation to the specific concerns of Fans Against Criminalisation about this legislation. As a result of emails and other correspondence and of the public meetings that have taken place since the 2012 act was passed, it has become clear that there are concerns. There is an opportunity for the Parliament to review the legislation in a way that recognises that a number of stakeholders have a say in the matter.

I have a question to ask Jeanette Findlay. I know from some of the dealings that I have had with her that there are specific answers to this. The impact of the legislation is significant for those who have become involved in the judicial process—the individuals whose careers have been affected by the act and by the confusion that has occurred alongside the judicial process, as James Kelly has mentioned. Could Jeanette Findlay provide some insight into the impact that the act has had on those individuals who have found themselves part of the judicial process and the justice system when issues have arisen?

Jeanette Findlay: We have already made the point that the conviction rate is not high, but people suffer a severe penalty just from being charged under the legislation. It is treated differently from any other act. The local fiscals do not make decisions on it. Everything has to be referred up, and everything is treated differently. All the rules are applied very stringently in a way that they are not in other cases.

I will give you a specific example. In the intermediate diet of a criminal case, the accused is sometimes given leave not to attend, and their solicitor attends instead. There was an instance during the winter the year before last when somebody charged under the 2012 act was asked to travel from Glasgow up to Dingwall, which is quite a long journey. The fiscal insisted that the person attend for the intermediate diet, which is when the fiscal shows the defence lawyer their evidence. It is a very short hearing. That individual was made to travel up to Dingwall in the winter. When they came back for the full trial, somebody there said to them that they had also been in that position but had been given leave not to attend. That person was being charged with a drugs offence, so somebody on a drugs charge was shown leniency that somebody charged under the 2012 act was not shown by the fiscal. That is one of the things that happen.

People have to attend long and drawn-out proceedings. Our experience is that people have to appear at court for a minimum of three occasions—it is often four or five. Every time that happens, they have to take time off work or time off their studies. That makes things very difficult. They usually have to let their employers know what is happening. We know of numerous cases where people have lost their jobs. In some cases, it is not just their job but their entire livelihood that has been at stake. Some of the young people we are talking about are teachers or student teachers. Some of them are in the NHS—they are healthcare professionals—and, if they were to get a criminal conviction, they would possibly lose their registration and, therefore, their entire career. We are talking about people who have lost jobs and who have had their entire career threatened after years of study and public investment. We are talking about people who have had relationships break down as a result of the stress and the pressure, and there have been upsets within their families.

Overwhelmingly—almost without exception—those are people with no previous criminal convictions, who would never otherwise have been near a court. Those people have not been charged with offences or acts that are at the higher or more serious end of what you might cover here. We are not generally talking about racism or homophobia, for instance; we are talking

about political T-shirts, swearing and the sort of robust language that might go on not only between football fans but in other parts of society. We are often not talking about actions where there have been any victims. There are often no victims—often, the only victims represented in court are the police, who say that they were offended.

The impact on people's lives includes the costs involved because, as we all know, the legal aid system is not as generous as it might once have been. If someone who is charged is in employment, not only might they risk losing their employment—some people have—they are having to pay solicitors' bills. They have to pay those whether or not they are found guilty. Someone could be also be out of pocket by the time they pay expenses for travel, because people often have to travel to a court in another part of the country. They must pay their expenses and pay for witnesses and solicitors, and the bills are often in the region of £1,000 to £2,000. However, we have had bills of £4,500.

We had a case that concluded recently at Glasgow sheriff court where seven young men spent—was it just under two years?

Paul Quigley: No, it was over two years.

Jeanette Findlay: They appeared 17 times in court for singing a song over two years previously and all of them got absolute discharges. That was a complete waste of money, with lives and finances wrecked—it is a disgrace.

The Convener: Given that you have raised the point about the amount of effort by the police and the criminal justice system to pursue those cases, are you aware of how many occasions people who were arrested for singing a song that was deemed to be offensive were arrested in a dawn raid? On such occasions, numerous police officers turn up in the early hours of the morning and take away a person. They are arrested later for an offence that was committed in a football ground. Is that a common occurrence?

Paul Quigley: That was more of an occurrence when the act was initially brought in. At that time, the approach of the police was a bit more full-on. What we found happening was that there would be simultaneous raids, usually about 7 o'clock and always on a Friday morning, which meant that people were held from the Friday over the weekend until they were able to make the court on the Monday. I believe that we were told by Police Scotland that the police would cease that practice, but they did not do so, as far as we are aware. For example, a few Motherwell fans experienced treatment similar to that just over a month ago.

It is obviously still going on, and to specifically pick a Friday morning for the arrests seems deliberately vindictive. It is not just by chance; it is a deliberate choice to do that. Again, it highlights just why the relationship has broken down and why so many young fans feel a complete distrust of the police at the moment. As either Jeanette Findlay or James Kelly said, it is to no one's benefit that that situation continues.

Jeanette Findlay: About six or seven months ago, we had a young 17-year-old Hamilton fan who had an altercation with a steward—not a physical altercation but an exchange of words—after which he left the ground. The following week, his mother awoke in the morning—she is a night-shift worker, so she was sleeping during the day—to find two police officers at the foot of her bed who had come to bring her son to be charged. When we have police officers going to those lengths to make sure that young people are charged for really very minor activities, that tells you a lot about the amount of resource and direction that is being focused—if that is the right word—on this legislation and on football fans; and it explains to you why football fans are feeling so aggrieved and so discriminated against.

Paul Quigley: When we met the interviewers for the Stirling research report, we found that, by that point, they had already conducted interviews with various stakeholders, including the police. One of the interviewers told us of a phrase used by one of the officers who was interviewed, who said that, when the legislation was first enacted, they approached it with a tactic of "shock and awe" to try to make an impact with a heavy-handed approach on the assumption that that would then make fans fall into line. However, many of the practices and tactics that were used then can still be seen now.

11:30

Jeanette Findlay: When the police service of Scotland is using the phraseology and tactics of the American military, that tells us that we have something to be worried about.

The Convener: We have had a good airing of the petition. Jackson Carlaw and Hanzala Malik have made suggestions on how to take it forward and have asked for the Scottish Government to give its views on that review. Is there a counter-argument or any other comments?

Jackson Carlaw: The Parliament has the ability to undertake post-legislative scrutiny, which the petition sets to one side. It is not just a matter for Government; it is a matter for the Parliament. I wonder whether we could write to the committee that originally had responsibility for the bill to ask whether it might be prepared, within its legacy paper, to recommend that the act be the subject of a post-legislative review in the next parliamentary session as part of the work programme that any

committee can establish for itself, in addition to any inquiry that we make of the Government.

The Convener: I was going to make that suggestion as well, so I agree with that.

Kenny MacAskill: James Kelly has made it clear that it is an election issue. The Parliament is coming to the end of the session. We could write to another committee but, frankly, by the time the petition got there, the committee might very well have concluded its legacy paper.

Mr Kelly is quite clear where he is coming from and people will have the opportunity in May to vote as they see fit. To some extent, we should write to the Government and ask for its plans but, equally, beyond that, it is quite clear that you are either for the act or against it and the electorate will decide.

The Convener: I tend to disagree with that. We all know that a host of issues will come up in the election. I do not think that we are going to have a single-issue election. It is not a referendum or a judgment on the offensive behaviour act. However, we have a duty as parliamentarians, as Jackson Carlaw said, to ensure that legislation that has been passed by this Parliament is fit for purpose and can be reviewed. I tend towards that argument.

As parliamentarians, do we want to see the legislation that has been introduced here properly reviewed and understood? That is what I would be driving at and that is why I want to invite the Justice Committee to consider recommending a review in its legacy paper. Again, it will be for that committee to make that decision, but there is no harm in this committee asking for that to be done. It is also right for us to ask the Scottish Government to comment on the arguments for a review that have been made this morning.

Hanzala Malik: I mentioned minority views earlier. Minority views are not balanced on numbers; they are balanced on principles and on rights—on human rights and on legacy rights. Therefore having a review is important, as well as giving the Justice Committee an opportunity to review the act. To pass on the gauntlet to the next parliamentary session is important.

I do not believe that we should play the numbers game; that is a dangerous game to play. It is more appropriate to ensure that every person—every Scot—feels that their human rights and their dignity are being protected, that they are being looked after and that they are part and parcel of the community ,regardless of their numbers. It is ridiculous to suggest that it is about numbers and percentages.

What is important to remember is that we all need to feel loved. We need to know that our children are secure; that our communities are secure; and that we can trust our police force. The police have a difficult job as it is and to complicate life for them in this way is unreasonable.

Legislation needs to be absolutely clear; everybody needs to have an equal right when it comes to judging what is right or wrong. For that purpose, the act has let people down and a review is important. I think that writing to the Government and to the Justice Committee is imperative. We must do that.

Angus MacDonald: I am certainly keen to ask the Scottish Government to respond to the points that have been raised by the petitioners in their petition. I am sure that the Scottish Government will be reading the *Official Report* word for word, if not watching the meeting live. That is certainly a must as far as I am concerned. However, I think that we should wait for the response from the Scottish Government before deciding whether to refer the petition to the Justice Committee. The Government might accept certain points, which will negate the need to refer it to the Justice Committee.

The Convener: I tend to take the view that the Justice Committee needs to start thinking now about its legacy paper. If we bring the petition to its attention, that will enable it to make a judgment on it. I am not telling the Justice Committee what to do but, if we do not bring it to the Justice Committee's attention now, the legacy paper could be completed before the Scottish Government responds.

Jackson Carlaw: I was not proposing to refer the petition to the Justice Committee; I was proposing to make an inquiry of the Justice Committee.

As a counterpart to Mr MacAskill, whose views I respect, I should say that I think that I have spent more minutes this morning discussing this issue than I have spent watching football in my lifetime, such is my interest in the sport. I do not have a preconceived notion, although I voted against the legislation at the time. What is being called for is a review. In the questions that I put to the witnesses, I was keen to say that I was not prejudging what the outcome of that review might be, but I think that the petition and the evidence that we have heard support the case for a post-legislative review. In any case, I think that the Parliament should conduct such reviews as a matter of routine, particularly in relation to legislation that has been designed to change social attitudes.

Kenny MacAskill: It seems to me that the Justice Committee will produce its legacy paper. The issue is not unknown to it—it is well within its cognisance, as letters have been written to it about the matter. If it wishes to pursue the matter, it will do so. There is no requirement for us to

make any recommendation or referral to it because, when it looks back over the parliamentary session from 2011 to 2016, the act will stand out as one of the foremost pieces of legislation that has come before it.

The Convener: I want to reach a consensus so that we do not divide unnecessarily. Kenny MacAskill, do you object to our advising the Justice Committee that the petition exists and bringing it to its attention? That is all that is being asked for, basically.

Kenny MacAskill: I do not object to that, on the basis that the issue is known to the committee. I am perfectly comfortable with our doing that, as long as we are not making a recommendation. We can say that we had witnesses before us, and doubtless the Justice Committee will form its own views.

The Convener: In that case, it appears that we have a consensus that we should write to the Government to ask for its views on the request for a review and to make it aware of the comments that have been made this morning and that we should bring the petition to the attention of the Justice Committee.

Kenny MacAskill: I suggest that we write to Police Scotland to ask whether it has any comments on matters that have been raised. It is not here to rebut any of the issues that have been raised. It is distinct and separate from the Government, and it might want to make its views known.

The Convener: I have no issue with that whatsoever. Given that the chief officer who was involved at the time is no longer in his post, we might be able to get a fresh look at the issue from Police Scotland. I would personally welcome that, given that the discussions that I had with the former chief constable led me to believe that he did not understand the issue or want to understand it, and that his arrogance, narcissism and authoritarianism are what drove him towards supporting the introduction of the legislation in the first place.

We will write to those organisations in that manner and await the responses. I thank Mr Quigley and Ms Findlay for coming along this morning. We will update them on the responses that we get.

We will suspend for a couple of minutes while the petitioners leave.

11:38

Meeting suspended.

11:43

On resuming—

Public Maladministration (Definition) (PE1594)

The Convener: Our next petition is PE1594, by Richard Burton, on behalf of Accountability Scotland, on the specification of lying as an example of public maladministration. Members have before them a note from the clerk, the petition and a SPICe briefing.

I am sure that we all agree that we deprecate lying, but it would be useful to find out the views of the Scottish Government on the petition. Do we agree to write to the Scottish Government in that regard?

Kenny MacAskill: Yes, although I have queries about this matter. Also, given that the Scottish Public Services Ombudsman is referenced in the petition, I think that that office should have the right to respond.

The Convener: Do we agree to write to the Scottish Government and the SPSO on the petition?

Members *indicated agreement.*

The Convener: We will let the petitioner know when we get the responses back.

Continued Petitions

Youth Football (PE1319)

11:44

The Convener: Our next item of business is consideration of 11 continued petitions, the first of which is PE1319, by William Smith and Scott Robertson, on improving youth football in Scotland. Members have before them information that has been provided by the clerk and responses that we have received.

Angus MacDonald: I am certainly keen to hear the response of the Children and Young People's Commissioner Scotland to the view of the Scottish Football Association and the Scottish Professional Football League and to the intended actions that they have set out.

The Convener: Yes, it would be useful to know that. We can continue the petition on that basis.

Gender-neutral Human Papillomavirus Vaccination (PE1477)

11:45

The Convener: The next petition is PE1477, by Jamie Rae on behalf of the Throat Cancer Foundation, on a gender-neutral human papillomavirus vaccination. Members have a note from the clerk, but I should point out that the petitioners contacted the clerks yesterday afternoon asking that the committee defer consideration of the petition until its next meeting to allow the petitioners to write to the committee in more depth. I understand that they would like to raise two concerns with the committee. The first is the length of time that the Joint Committee on Vaccination and Immunisation is taking to issue guidance on the matter, and the second is that the proposed HPV vaccine programme is not wide enough in its scope.

David Torrance (Kirkcaldy) (SNP): I am happy to defer consideration.

Angus MacDonald: The petitioners might well have valid points. It would be good to get more detail from them in due course. I am certainly keen to keep the petition open until we get further information.

The Convener: I think that that is agreed. We will consider the petition at our next meeting, which will give the petitioners time to get back to us.

Residential Care (Severely Learning-disabled People) (PE1545)

The Convener: The next petition is PE1545, by Ann Maxwell, on behalf of the Muir Maxwell Trust, on residential care provision for the severely learning disabled. Members have a note from the clerk plus the submissions that we have received.

I do not know that we can do much with the petition. The issue is whether we close it or whether, because of some of the responses, there is still scope to leave it open and allow a future committee to see whether anything comes out of the deliberations. I am always reluctant to close a petition if there is still some work going on around it. A new committee might say that there is nowhere it can go with the petition but, given that some issues are outstanding, should we leave it open and add it to our legacy paper?

Members *indicated agreement.*

Electric Shock and Vibration Collars (PE1555)

The Convener: Our next petition is PE1555, by Siobhan Garrahy, on electric shock and vibration collars for animals. What do members think? Is there any mileage in keeping the petition open or do we have the answers that we are going to get?

Angus MacDonald: Given that the Scottish Government has said that it is reviewing the current situation and the law, there is not much more that the committee can do.

The Convener: As I said, I am always reluctant to close a petition when a review is still happening, but the Government has made clear exactly what outcome it is looking for. There is not much more that we can do with the petition, so we will close it.

Animal Welfare (Rabbits) (PE1561)

The Convener: The next petition is PE1561, by Karen Gray, on behalf of Rabbits Require Rights Scotland, on pet rabbit welfare. Do members have a view on how we deal with the petition?

Kenny MacAskill: We have gone as far as we can with it.

The Convener: The only thing that we could do is ask the Government to speed up its work, but I do not know that that would make any difference in the long run. Will we close the petition?

David Torrance: I think that the committee has taken it as far as we can.

Sentencing (Disclosure of Occupations) (PE1572)

The Convener: The next petition is PE1572, by Parveen Haq, on occupational disclosure in trials

and sentencing. Members have a note and the submissions that have been received. The responses are pretty comprehensive and basically answer the questions that were put.

David Torrance: I think we can close the petition.

The Convener: I think that we can close the petition and advise the petitioner.

LGBTI+ Issues (PE1573)

The Convener: The next petition is PE1573, by Jordan Daly, on behalf of Time for Inclusive Education, on statutory teaching of lesbian, gay, bisexual, transgender/transsexual and intersex plus—LGBTI+—issues. As was said when we considered the petition previously, although there is a lot of sympathy for the petition, the petitioner is asking for something to be set in stone in the curriculum, and that does not happen. However, the issues were raised and the committee took forward the issue and asked for a comprehensive analysis of the situation. The responses were positive, but I do not think that we can ask the Government to do what the petitioner asks, which is to set something in the curriculum and force education authorities and teachers to teach it. I think that the petitioner might understand that. They have raised an important issue, but I do not think that we can do anything more with the petition. Do members agree?

Members *indicated agreement.*

Human Papillomavirus Vaccine (Safety) (PE1574)

The Convener: The next petition is PE1574, by Freda Birrell, on behalf of the UK Association of HPV Vaccine Injured Daughters, on HPV vaccine safety. Again, we have the submissions.

David Torrance: I think that we should close the petition under rule 15.7, considering that the European Commission is looking at the issue and its rulings will have a bearing on Scotland.

The Convener: Do members agree with that?

Members *indicated agreement.*

Blue Badge Scheme (Eligibility Criteria) (PE1576)

The Convener: Our next petition is PE1576, by Owain Martin, on blue badges for children with autism and Down's syndrome. Again, we have had the submissions back and the response is pretty comprehensive. Therefore, under rule 15.7 of standing orders, we might want to close it.

Kenny MacAskill: There is a pilot scheme. If it does not work out to be satisfactory and is not taken further, to an extent, there would be grounds for a new petition. The ground has changed under our feet. I think that we have done all that we can.

The Convener: Do we agree to close the petition on that basis?

Members *indicated agreement.*

Adult Cerebral Palsy Services (PE1577)

The Convener: Our next petition is PE1577, by Rachael Wallace, on adult cerebral palsy services. Murdo Fraser has joined us. Do you want to make some comments or raise anything with us before we deliberate on the petition?

Murdo Fraser (Mid Scotland and Fife) (Con): Thank you, convener. I was pleased to support Rachael Wallace when she came to the committee previously. I recall that members were impressed with the evidence that she gave.

We have had responses from the Scottish Government, Capability Scotland, which is supportive of the petition, and the petitioner. The Scottish Government has suggested a meeting between the petitioner and the minister, which would be very welcome. Members might recall that I have tried on a number of occasions to get such a meeting, so I am pleased that one has been offered and we would be happy to take that up. I am not aware that the minister's office has been in touch to arrange a meeting as yet, but I am keen to pursue that.

However, I wonder whether a private meeting between the petitioner and the minister is sufficient, given that much broader issues are being raised in the petition. There is an impact on a range of adults other than simply the petitioner. Although Rachael Wallace and I would be pleased to have a meeting with the minister, I would not like that to be the sole outcome of the petition. I encourage members to consider what further action they might want to take to pursue the matter. For example, they might feel it appropriate to ask the minister to come before the committee to answer some of the questions that were raised in the original petition and in the detailed response from Capability Scotland.

Kenny MacAskill: Murdo Fraser is right to be concerned, because the issue is significant and important. The meeting might be a prelude to more than that, depending on where the Government is going. Given that time is tight, rather than getting the minister here, the first response would be to ask the Government to confirm whether the meeting will happen and then, after the meeting, to give us an indication of the outcome. Until then, we would be prejudging the issue. We should ask the minister to meet the petitioner and get back to us expeditiously.

The Convener: We have to pursue the issue further. We need to clarify whether the meeting will take place—that is a legitimate request—but we also need to know what the Government wants to do to take forward a clinical pathway, because that is what is being asked for and I am not sure that we have an answer yet. We can write to the Government to get confirmation of the meeting and to ask it specifically about a clinical pathway. Is that all right?

Members *indicated agreement.*

The Convener: We will take it forward in that manner. I thank Murdo Fraser for bringing that to our attention.

International Health Treaty Standards (Guidance) (PE1580)

The Convener: The final continued petition is PE1580, by Sheila Duffy on behalf of ASH Scotland, on guidance for Parliament staff on international health treaty standards. We have received some additional information—members have on their desks a submission from the World Health Organization in response to the committee's request for examples of good practice in other legislatures. The WHO has provided examples of practice in Governments and Government departments in various countries. It states that the examples that have been provided are

"generally more advanced as they concern government officials and government bodies".

It goes on to say:

"Equivalent practices for legislative bodies are in the process of being developed in some countries."

The Scottish Parliament has already looked at the issue. If it is being taken forward by the WHO and by other countries, I am sure that the Scottish Parliament would be party to any outcomes that emerge if there are any issues that need to be addressed in the way that the Parliament deals with tobacco companies.

I feel as though we have achieved all that we are going to achieve on the petition and we have identified all the information that we need. We should close the petition.

Angus MacDonald: I agree. I am content with the response that we have received from the Presiding Officer assuring us that the framework convention on tobacco control guidelines is being followed. I am content to close the petition.

The Convener: I think that we are agreed on that.

That brings us to the end of consideration of petitions. As agreed earlier, we now go into private session.

11:56

Meeting continued in private until 12:02.

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