OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 22 June 2017

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 22 June 2017

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PUBLIC PETITIONS COMMITTEE
13th Meeting 2017, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Angus MacDonald (Falkirk East) (SNP)

COMMITTEE MEMBERS

*Maurice Corry (West Scotland) (Con)
*Rona Mackay (Strathkelvin and Bearsden) (SNP)
Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Finnie (Highlands and Islands) (Green)
Ian Maxwell (Families Need Fathers Scotland)
Mhairi McGowan (ASSIST)
Pauline McIntyre (Children and Young People's Commissioner Scotland)
Edward Mountain (Highlands and Islands) (Con) (Committee Substitute)
Dr Marsha Scott (Scottish Women's Aid)
Wendy Stephen
Stuart Valentine (Relationships Scotland)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Public Petitions Committee

Thursday 22 June 2017

[The Convener opened the meeting at 09:00]

Continued Petition

Children (Scotland) Act 1995 (Section 11) (PE1635)

The Convener (Johann Lamont): Welcome to the 13th meeting in 2017 of the Public Petitions Committee. We have received apologies from Brian Whittle; his substitute, Edward Mountain, is here in his place. We expect that Neil Findlay will join us soon.

The first item on the agenda is a round-table evidence session on PE1635, a continued petition that calls for a review of section 11 of the Children (Scotland) Act 1995. We are joined by five witnesses. I welcome Stuart Valentine, of Relationships Scotland; Ian Maxwell, of Families Need Fathers Scotland; Pauline McIntyre, from the office of the Children and Young People's Commissioner Scotland; Dr Marsha Scott, from Scottish Women's Aid; and Mhairi McGowan, from ASSIST—the advice, support, safety and information services together project.

The purpose of holding an evidence session in this format is to allow discussion of issues between all participants. However, in the interests of managing the meeting and making sure that everyone is able to contribute, I ask all participants to indicate to me if they wish to say something. To ensure that we make the most of our time, we will not have any opening statements. Of course, we have copies of the written submissions that we have received on the petition.

Once we have concluded our questions, members will have a discussion to agree our next action on the petition, so I would be grateful if witnesses could bear with us during that discussion.

As I said, this is an attempt to have a dialogue or conversation rather than a more formal session. We want to talk about issues around contact centres that the committee was quite struck by and which we had not been aware of until the petitioner brought them to our attention. We think that it will be useful to explore those issues with our witnesses today.

One issue that we should discuss is the external regulation of child contact centres. However, before we get to that subject, I would like to start by asking about the nature of cases in which contact at centres is involved.

In its submission, Relationships Scotland states that there has been an

"increasing complexity of cases seen over recent years."

Mr Valentine, could you start us off by outlining the type of cases that you see and their associated complexities? After that, I will open up the discussion to other participants.

Stuart Valentine (Relationships Scotland): Relationships Scotland operates 46 child contact centres across the country and, each year, about 2,000 children are supported to see their non-resident parent through those centres. In recent years, the cases that come to us have far more complex issues attached to them than was the case previously. Increasingly, the families who see us have issues around drug and alcohol dependence, and domestic abuse is clearly a factor in many of the cases that come to us. In general terms, it appears that the statutory organisations—social work, the national health service and others—are less able to deal with many of the issues that are being faced by families in Scotland, and many more of those issues are being passed over to agencies such as Relationships Scotland.

In terms of the cases that come to child contact centres, the starting point is a relationship breakdown between the mum and the dad, who have subsequently not been able to resolve the arrangements for seeing their children. Some 70 per cent of the cases that come to child contact centres will have been referred either by the courts or by solicitors, so the cases that come to us involve highly conflictual situations with a range of issues.

Some 10 per cent of the cases that come to us involve what is called supervised child contact, which involves one family at a time being supervised by two trained members of our staff, with the whole contact being observed very carefully within the room. If anything happens during that contact—for example, a dad who is the non-resident parent asks any questions about the mum—it would be stopped straight away. If anything inappropriate happens during supervised contact, our staff intervene immediately. In cases of supervised contact, reports are written for the courts that contain factual accounts of how the child contact session progressed—obviously, our staff are well trained in writing such reports.

It is clear that those situations are difficult to manage. The role of Relationships Scotland is to be impartial. We try to support the resident parent and the non-resident parent. Often, the resident parent is the mum, but that is not always the

case—in roughly 10 per cent of cases, it is the other way around.

The safety and the welfare of children are Relationships Scotland's first priority. Referrals come to us from a variety of places. Our role is to make a risk assessment in each and every case with regard to whether it is safe for the contact go ahead. I can say that, to the best of my knowledge, in the 25 years that we have been running the child contact centres no child has ever been physically harmed by a parent in one of our centres. We run our centres very carefully and safely, and people are appropriately trained. Although there is clearly a debate to be had about when it is right for contact to go ahead, when it goes ahead in our centres, we ensure that it is conducted in a safe manner for all concerned.

The Convener: You are suggesting that, because the formal agencies are under pressure, families are coming to you now who would not have come to you in the past because they would have been part of a more formal supervised system. Does that mean that some young people and families are coming to you even though you think that that is not the most appropriate route for them?

Stuart Valentine: There is always a judgment to be made about the appropriateness of someone coming to us. We know that people come to us with issues such as drug and alcohol problems that we would have hoped would have been addressed by support that was already in place. However, we find that that support is not in place, and that there are additional complexities to the contact arrangements that are happening.

The Convener: Do you have the authority to say that something is not an appropriate case for you to deal with?

Stuart Valentine: We do. Although the courts can refer cases to Relationships Scotland, we make an independent judgment about whether we consider that it is safe for any given contact to go ahead. We would not try to replicate or revisit the decision of the court about whether contact should happen, but the judgment that we make involves whether that particular contact is safe in the context of our child contact centres. If we judge that it is not, we will not go ahead with it. It is fair to say that the number of cases that we would not go ahead with for that reason is not massive. However, on a regular basis, we do not take court referrals because, in our judgment, it would not be safe for them to go ahead.

Ian Maxwell (Families Need Fathers Scotland): Families Need Fathers Scotland comes across a lot of fathers who are asked to use the contact centre as part of an interim order that is put in place by the court. When the court has a child welfare hearing, it does not have a lot of firm evidence in front of it, but it is keen to maintain contact between the parent and the child. A number of the court referrals to contact centres do not involve any of the issues that Stuart Valentine has mentioned—drugs, alcohol, domestic violence and so on—but are made simply because the court does not know the full situation, as it has not had a specialist report, and wants to keep the contact running.

Fathers often tell us that they have been living with their children for a long time but that, since they left the home, they have not seen them and that the court told them that they would have to see them in a contact centre. In those cases, we say to the fathers that they should do that, because it is a chance to resume contact with their children. It also gives the parents and the children safety: there are trained people there who observe what is happening and who help the parents to avoid some of the conflicts that often happen at handovers between separated parents in situations in which there is a high degree of tension. Such handovers can be difficult points, but that can be avoided if the handover takes place in the contact centre, without the parents meeting.

Part of the role of contact centres is to allow the court to make a safe decision, with supervised contact being used to ensure that there are no risks. Obviously, there are cases in which the court is concerned about issues around domestic violence, drug and alcohol abuse and so on, but that is a separate issue.

The full picture of the type of people who use contact centres is that there is a very wide range—it can be almost anybody, if the court does not have firm evidence but wants to ensure that contact continues.

Dr Marsha Scott (Scottish Women's Aid): I will make a couple of points that I hope will help to frame the conversation today, especially in response to the specific circumstances of the petitioner's case. First, it is really unhelpful to talk about contact as a generic event and relationship breakdown as the same as domestic abuse.

What we are really focusing on here is contact in the context of domestic abuse, which has been flagged up by Scottish Women's Aid for at least 10 years. We have done joint work on that with the children's commissioner over the past three years. The use of contact centres outwith that context is a very different discussion. Engaging in a discussion about the pros and cons of contact that is ordered outwith domestic abuse is not terribly helpful, because it is a separate issue. The notion of impartiality is a misnomer in the context of domestic abuse, unless we completely ignore the rights of children in the context of harm.

I encourage us all to think about the issue not as generic contact, but as contact in the context of domestic abuse. We have libraries of evidence that shows that such contact can, and does, harm children when it is not managed appropriately. Sometimes, it cannot be managed appropriately and safely, often for both mother and child. Since the 1990s, we have had academic research in Scotland and the United Kingdom that says that contact orders put women and children in real danger—I do not wish to minimise that—and that children are harmed in Scotland every day, although not by ill-intentioned people in any part of the system, save, possibly, abusers.

If we are going to do something about the problem, we have to be really clear about what it is. The problem is the presumption in the system to award contact when it is unclear that it is safe. We would really welcome the Public Petitions Committee's help with getting some traction for that specific discussion, because we have been talking about it now for 10 years. Mhairi McGowan will tell you that Emma McDonald's story, as horrific as it is, is replicated in our case load every week.

We have had very little traction in the system and we ask that, instead of engaging in academic conversations about contact in general, we look at what can urgently be done. We have a few suggestions for that, although I do not know whether now is the time.

The Convener: We will let others come in first.

Dr Scott: It is really important to focus on the rights of the child in the context of domestic abuse.

Mhairi McGowan (ASSIST): I agree that there are two different situations: contact in general, where relationships have broken down, and contact where there has been domestic abuse. They are totally separate situations.

I want to highlight the situation of our clients, who have had really dreadful experiences throughout the management of their separation. I stress that not all contact centres are run by Relationships Scotland. Anybody can set up a contact centre. They can set up a website, send out mailings to courts and tell people what they are supplying, and that is that—they have a contact centre. We have no way of regulating them.

To follow up what Stuart Valentine said, 90 per cent of contact is supported, so people have no idea whether the non-resident parent is questioning the child.

In fact, I was contacted this morning while I was on the way here by someone who said that a contact centre—not one of Relationships Scotland's centres—had refused to allow her to have someone accompany her into the centre, but she had wanted to take that action in order to feel safe going into and out of the centre.

09:15

All sorts of issues arise, but the main point is that we need to ensure that children are safe and are not put under pressure by non-resident parents to talk about what the resident parent has been doing and who they have been seeing. We want to ensure that risk assessments take place. We need a real shake-up of the system. As Marsha Scott said, let us look for solutions, but let us separate out the situations where there is no domestic abuse—where contact centres do a really valuable job—from the complex situations where there is domestic abuse. We need a radical change on that.

The Convener: We need to be careful in anything that we say about the petitioner's individual circumstances, but the general points that have come from her petition have given us an important focus. A lot of the evidence that we have been given is specifically on the issues relating to domestic abuse, but we are interested in getting a picture of how contact centres work and the general issue of security in contact centres. However, we are interested in the processes for dealing with domestic abuse and whether the kind of service that Relationships Scotland provides is appropriate at all in those cases.

Stuart Valentine: I support and agree with Marsha Scott and Mhairi McGowan. It is vital that we focus the discussion on the particular issue of domestic abuse and contact. Relationships Scotland has been at many conferences and presentations alongside Scottish Women's Aid and others. One of the key things that we would like is the development of specialist risk assessments that the court can order before making a decision on contact, as that is a significant gap in the process. Such assessments have started on a very small scale, in that four specialist risk assessments have been done by someone called Catriona Grant, and those were well received by the sheriffs. I believe that specialist risk assessments are a necessity in such cases. I agree with Marsha Scott that it is important that the conversation is focused on domestic abuse and contact, although of course we should discuss the other issues.

Of the child contact centres in Scotland, 46 come under the banner of Relationships Scotland. To our knowledge, there are three independent child contact centres that currently are not under that banner.

The Convener: But Mhairi McGowan thinks that anybody can set up a contact centre.

Mhairi McGowan: Yes, they can. There is nothing to prevent anyone from setting up a contact centre. An individual was in touch with me recently who had tried to find out details of the management of a centre, but that was very difficult. I checked it out and I could not easily find out the details. People are left in limbo.

To go back slightly, child welfare reports for the court are written by people who might not have knowledge and understanding of the dynamics and risks involved in domestic abuse. Courts might therefore have to make decisions without appropriate reports in front of them. Not all sheriffs have training in domestic abuse, because it is not mandatory. There are gaps all the way through the system, before we even get to contact centres. When we get there, the issue is how the centres are regulated. When people hear that the contact will be in a contact centre, they immediately think that that will be safe but, as Stuart Valentine pointed out, only 10 per cent of cases are supervised. Although I agree that the supervised handover is helpful, if there is not someone in the room and there has been domestic abuse, we do not know what is being said.

Pauline McIntyre (Children and Young People's Commissioner Scotland): I thank the petitioner for raising the issues in her petition. There is a significant children's rights issue. In particular, there is the issue of children who are affected by domestic abuse and disputed contact. That engages the child's right to have their best interests taken into account when decisions are made about them. It also takes into account article 12 of the United Nations Convention on the Rights of the Child, which talks about the voice of the child in decisions that affect them. There are some very significant issues here, in terms of children facing barriers to being able to put across their views and barriers to being believed.

Other rights are engaged here as well, such as the right of a child not to be separated from a parent unless it is in their best interests, and their right to be protected from all forms of physical and mental violence. I have been working at the commissioner's office since 2005. When I worked there initially I ran its inquiry service, and we received a number of calls from parents who were very distressed by the process of taking their child to contact. They were very distressed that their child did not appear to have a voice in the proceedings, and when they were allowed the chance to say something, generally they were not believed or their views were discounted because it was felt that they were being manipulated by the resident parent.

There is a further issue for me, concerning legal representation for these children. There were changes to the legal aid regulations back in 2010 or 2011, which made it much more difficult for children to have independent legal representation. The eligibility criteria were changed. Before, children could be eligible on the basis of their own income, but the regulations were changed so that parental income was taken into account as well. That small change has made it almost impossible for a child who is experiencing domestic abuse to be heard in those kinds of settings.

The settings that children are in are patently not child friendly. The forms and methods used to take children's views are not child friendly. The system is built for adults and does not take into account the dynamics of domestic abuse, as Mhairi McGowan and Marsha Scott have said. It also does not take into account what it is like to be a child and the harm that domestic abuse can do to the child.

The Convener: That is very interesting. How appropriate, in terms of hearing a child's voice, is it to instruct a solicitor? Would it not be more appropriate to have in place a system with independent children's workers who know how to work with young people, and to hear children's voices through those workers? I have some experience of being on a panel in the children's hearings system. On those panels there are a lot of solicitors representing virtually everybody in the room, and I do not know whether that actually means that the child's voice is heard through that process.

Pauline McIntyre: That is a fair point. At the moment, the problem is that the child's views are generally thought to be represented through the mother's solicitor. There is automatically some suggestion that the child's views are being manipulated or changed in some way. In an ideal world, having someone there who could work with a child and build up a relationship with them and allow them to speak openly would absolutely be helpful.

One issue that emerged from the research that our office did in 2013 was that when court reporters spoke to children, they often did not take the time to get to know the child. The child would be weighing up all sorts of risks. A child who is in a domestic abuse situation has to think about whether, if they say something, it will get back to their father—in most cases it is the father—and whether there will be retaliation against their mother. They are weighing up a wider range of issues than would have to be considered by a child in a general contact situation, who would perhaps be worried about hurting the other parent's feelings. It is more of a safety issue.

The Convener: We got some information from a children's worker—I cannot remember their title—who seemed to be someone who could have those kind of conversations in which children are

allowed to say things. There is a whole thing about children going into situations in which they are not even allowed to say whether they have enjoyed themselves, because it might have consequences for either parent.

Ian Maxwell: I would like to pick up on two points that have been made. The first is on the training of child welfare reporters, who are tasked with preparing reports for court. A few years ago, a working group was established that included us, Scottish Women's Aid and various other organisations. The group prepared a series of recommendations on how the system could be improved, some of which have been implemented. One recommendation was to do with how the interlocutors are prepared, and so on. One crucial recommendation was that child welfare reporters should have to undertake training on various things; obviously, the key areas were training in domestic abuse and in parental alienation.

That recommendation was agreed by the working group—I think that there was agreement across the board—but so far it has not been implemented. We have been advised that there is some problem with insisting that these things happen, but we feel that it is ridiculous that child welfare reporters are not expected to undertake that crucial training. I hope that the committee will take that up.

The second point is about children's views. I am also a member of the family law committee of the Scottish Civil Justice Council. I am not speaking on its behalf today—I am speaking purely from my involvement in Families Need Fathers Scotland—but that committee has been actively involved in looking at the ways in which children's views are taken. It has been engaging with a range of other organisations and has commissioned some consultation with children and young people about how their views should be given to the court.

The F9 form that children use, which is really dry and nasty looking and is not child friendly, is being revised and redesigned. I hope that the new form will help, but the family law committee of the SCJC is still actively pursuing the issue because it recognises that better methods need to be used to ensure that children's views are taken into account appropriately. There is also a really important issue about the confidentiality of children's views that are taken in a court setting, and work is taking place in that area.

My final point on children's views is that it is important that children have input into the process, but they should not be the decision makers. Their views are important, but ultimately it is the court that makes the decision.

Dr Scott: The committee might have heard from the children's rights officer in West Lothian Council. I happen to know about that because I started the post when I worked there. We really started it in a context of desperation, as we were unable to find a way to get children's concerns into the evidence that was presented in front of the courts. I agree with Ian Maxwell about the importance of children being listened to—not that their wishes should be the deciding factor, but there was no evidence that they were influencing the process in any way. We were finding traumatised children and mothers coming through our domestic and sexual assault service, and we had no way to support the ending of that trauma.

We found that, as Pauline McIntyre says, it is important to have somebody who has been trained in children's development and how to talk to children. The children's rights officer in West Lothian Council now has a case load of more than 200, and it is not the hugest local authority in Scotland. We found that it is not rocket science and it does not take a huge amount of time, but it is important to have somebody who understands how to work with children and the nature of domestic abuse. When I was at West Lothian Council, the children's rights officer worked with children as young as four years old and was able to help them to draw pictures and write letters—to communicate in the most effective ways for them. That could then be shared with sheriffs. I know that some sheriffs in West Lothian now almost default to getting her involved in such cases.

The convener asked whether it is appropriate to instruct a solicitor. I completely support the idea that, under UNCRC and other obligations, children have a right to be able to access justice just as adults do, and they should be able to have legal representation. It is not an either/or. However, the preferred model is to have appropriately trained people in communities—whether they are children's rights officers or the model is implemented in a different way—with the appropriate abilities to work with children and feed their voices into the system.

09:30

I know that the F9 form is being revised. The Children and Young People's Commissioner Scotland and Scottish Women's Aid have been working on the power up/power down project—we sent the links, so I hope that members get an opportunity to look at that—which gives children a direct voice on their experience of contact. That work has fed into the review of the F9 form, and I hope that that will have a significant impact.

The thread that runs through a lot of what has been said by all of us is that there is a lack of appropriate training in the system. What I call domestic abuse competence is sadly missing in many of the actors who make decisions about the

lives of women and children in the context of domestic abuse. When the appropriate training has been put in place in child welfare hearings, there have been some really good outcomes. It is a case of giving well-intentioned people who are trying to make the interests of children paramount in their discussions the tools to understand what is going on.

For some time, we have been calling for any sheriff who hears a case that involves domestic abuse to be required to have specialist training. That is not the case at the moment. In addition, social workers do not have to be trained in domestic abuse. We have 36 services across Scotland, and every one of them tells us that that is a problem, because social workers sometimes say to them, "This is a court problem—this isn't in our case load."

Pauline McIntyre: I want to pick up on what Ian Maxwell said about the Scottish Civil Justice Council. I agree that it is working hard to improve the situation for children and young people who go through such proceedings. We and Scottish Women's Aid have had a lot of dialogue with the SCJC to inform that work. I know that it is revising the F9 form, but we are aware that a form is not the way forward for children and young people. Children require a range of ways to enable them to contribute in a way that works for them.

Marsha Scott alluded to the power up/power down project, on which we worked in partnership with Scottish Women's Aid. That involved consulting 27 children aged between, I think, seven and 15. The idea behind it was quite an innovative way of looking at the situation. A cartoon was produced that explored how children's views are sought in such cases. The children were asked to look at the cartoon and to talk about how it made them feel; then they were asked to try to create a new cartoon that set out, in an ideal world, how that process would work differently. Some extremely useful suggestions were made, so I hope that members will have the opportunity to look at that report. We have also produced some videos that explain some of the children's views on that.

I was once made aware of a case in which a child who was experiencing domestic abuse was trying to provide their view and they asked to do it through the medium of Lego. They wanted to use Lego to help them to explain what was happening, which would have been a very child-friendly way of doing it, but they were told that they were not allowed to. To me, that probably demonstrates more clearly than anything else could that the way in which the system is set up at the moment is process driven—it is a case of having to do things in such-and-such a way instead of being child centred. We need to have a child-centred system that understands the dynamics of domestic abuse and the harm that it causes to children and young people.

Mhairi McGowan: Our service covers 42 per cent of Scotland's population, and our children's workers talk to children about child contact on a daily basis. Children raise it all the time. They ask whether they will be forced to go and what will happen; they worry that they will be asked questions. Report writers come to the office to interview our workers and to ask them for details. It is not unusual for a report writer to say at the end of that process, "I didn't think about that," or, "My goodness, I didn't understand all that was going on." In general, there is a dearth of information about the situation around domestic abuse.

There are so many things that would help. We have been talking about David Mandel's safe and together model for a number of years. Adopting his approach would make such a difference. It focuses on how the abusive behaviour impacts on the child, what the mitigating circumstances that the other parent is putting in place are and what the effect of that is on the child. The whole system is there to ensure that children are safe and together with all the parents. A number of local authorities have started that process. We need to push that forward and ensure that children are at the centre, because unless we do that, children will not be safe.

The Convener: I have a question about training, after which I will bring in Rona Mackay. First, I want to mention that I had the opportunity to see one of your centres in Glasgow and record my thanks for an interesting visit.

An issue that has been raised in the petition is the idea that a non-resident parent has an entitlement to contact. The child is taken along to that contact, whether or not they want to go, to spend time with that parent. I was told that if a child were distressed or unhappy, that would not happen and that no pressure would be put on a child to stay in those circumstances. Will you say something about that? If a child went to a centre for supported contact but they did not want to be there and the father said that he was entitled to a two-hour visit, what would the advice be to the centre's staff?

Stuart Valentine: You raise a good point. If a court-ordered contact came to one of our centres and that child was distressed and did not want to go through to meet them, our staff would not progress with that contact. If that child said that they did not want to go through, and that was their settled position, they would not go through. Our staff may gently encourage people to go through, but they would do nothing beyond that. That is key. There are no situations in which children are

being physically forced through for a contact. That would not happen in our child contact centres.

The Convener: It is not your obligation to enforce the court order.

Stuart Valentine: It is not. The court can order contact to take place, but it is not ordering Relationships Scotland to make that happen. As I have said, we have made the decision on a number of occasions that it is not safe for contact to happen in our centres and we have not facilitated it. In those circumstances, we will say that it is not happening. If, on the day, children do not want to go through and see their non-resident parent, our staff will say that the child is distressed, they did not want to go through and the contact does not happen. It is not our job to enforce contact; rather, it is our job to facilitate contact, where it is appropriate and safe to do so.

The Convener: Do you keep an eye on any contact, so that you know if a child becomes distressed, unhappy or uncomfortable? Are there means by which a child can come out of the contact?

Stuart Valentine: Absolutely. If that was the circumstance, we would bring the contact to an end.

Rona Mackay (Strathkelvin and Bearsden) (SNP): We are hearing—we pretty much knew this—that the core of the issue lies with the training, particularly in the court system. Unfortunately, no one from the judiciary is here to speak today. Stuart Valentine has said that judges are amenable to specialist core training. Is that the widespread view?

Stuart Valentine: There are two issues. We need to ensure that child welfare reporters are adequately trained on domestic abuse issues and skilled in taking children's views. In addition to that, new specialist risk assessments on domestic abuse need to be carried out. That is a major gap in the system. Therefore, it is not just about training child welfare reporters but about having highly trained new people available to the court who can undertake specialist risk assessments where domestic abuse is a concern. That would make a radical difference to the quality of the court's decision making. It is in no one's interest for dangerous, violent and coercively controlling men to continue, in some way, to harm the lives of women and children.

The courts need to be equipped to be able to make the best decisions possible. A route that we have been advocating for many years is the development of new specialist risk assessments. Those have started on a small scale. A number of years ago, our organisation applied to set up a pilot project but, unfortunately, we could not get the funding. As I say, carrying out such assessments would be a significant step forward in the quality and the decision making of the courts.

Rona Mackay: Ultimately, it is the judge who will order contact. We have heard that there have been problems with judges coming fresh to cases and not knowing enough of the background information about them. There have been breakdowns in communication. I hear what you say about specialists, but other members of staff and ultimately judges need to be aware of the background to the case.

Stuart Valentine: We would certainly support that. Relationships Scotland has been involved in the training of sheriffs through the Judicial Institute for Scotland. It is clear that we would support additional training for sheriffs on domestic abuse. That is very important.

Rona Mackay: I want to ask you about the training for your staff and volunteers in Relationships Scotland's centres. We have a briefing that says that they undergo full training, but we have heard that that is not always the case. How much training do they go through?

Stuart Valentine: It depends on the role that they will play. There will be a difference in training between, for example, staff and volunteers who undertake supported contact, and those who do supervised contacts. There will be a higher level of training for those who undertake supervised contact, because they have to write court reports and analyse the quality of the contact. Our basic training, which all volunteers and staff go through, covers the key issues around child protection and domestic abuse and other areas.

It would be fair to say that there has been development to improve standards and quality over the 25 years in which we have done work in child contact centres. That journey continues. Our training could be better than it is. There are challenges for us to address to ensure that there is on-going improvement in our standards, but no one would go into work in our child contact centres without experience of working with children or without going through all the training that we have in place.

Rona Mackay: What is the training? How long does it last? What is its timescale?

Stuart Valentine: The basic training is for a number of days; we are not talking about a social work course that lasts for a number of years. People receive basic training that covers a number of issues over two days or so.

The Convener: I will take in Mhairi McGowan and Marsha Scott; I think that Ian Maxwell also indicated that he wanted to come in. I am interested in their views on training for the judiciary

and for the centres. Distressed children were talked about. Is there a definition of how that distress would reveal itself to us?

Stuart Valentine: That is part of the skill that is involved. I believe that, on your visit to Glasgow the other day, convener, you spoke to Carol Carbry and Brian McGlynn, who run our child contact centres in Glasgow. The people who work in the child contact centres are highly experienced in working with children, knowing the issues that they face and being incredibly sensitive about how difficult a process it can be at times for children. As I have said, the first and top priority for everyone who is involved in our work at Relationships Scotland is the safety and welfare of children.

I go back to a point that Rona Mackay raised. It is not our job to enforce contact; our job is to facilitate contact where it is safe and appropriate to do so. Our staff would not wish to see children being distressed and going to a contact that they fundamentally do not want to go to. If they do not want to go through after perhaps a couple of times of being asked, that will be the end of it, and the contact will not take place.

Mhairi McGowan: On training, the judiciary has an excellent day's course on domestic abuse, but the problem is that people have to volunteer to go on it. As far as I am aware, it is not run regularly. That might not be the case, but the last time that I spoke to the Judicial Institute for Scotland, which was at the end of last year, there had been a significant period of time since that course had run.

There is no mandatory training at all on domestic abuse for any report writers in court, so there is a huge range of experience, from woefully inadequate to very good.

I ask the committee to think about the issue through the eyes of a child. A regular experience for us is that our children are incredibly upset and do not want to go to a contact centre. They will have had nightmares, wet their bed, cried and said to their mother, "I don't want to go." The mum has to say that the court told her that they have to go. The child will have said to the mum, "Why are you making me do this?"

09:45

The child is then dragged to the contact centre, where someone the child does not know says, "Would you like to go through and see your dad?" How on earth is that child going to feel able to say to a stranger, "I really don't want to go." I do not think that we can expect children to say that—we are asking children to stand up against a system that is not child-centric. I whole-heartedly agree with Stuart Valentine about risk assessment and Catriona Grant's work—I am right with you on that—but what an adult perceives as gentle encouragement could be different from what a child perceives as gentle encouragement. We are asking children once or twice, which is undue pressure.

Training for centre staff needs to be longer than a couple of days. For domestic abuse alone, three days is needed to look in detail at coercive control, the dynamics, and the effect on the adult victims and the children. Generic training on domestic abuse will pick up people at the extreme end of the abuse spectrum but it will not pick up the subtle manipulation that can go on. Abusers are of all sorts. If it was easy to spot them, we would not have a problem of domestic abuse in our society. That is not how they appear, though. For the most part, they appear as genuine and authentic human beings, when in fact they have a high level of expertise at manipulating their victims and society.

The Convener: Have you come across examples of women ending up in the court system because it has been deemed that they are not ensuring that contact takes place?

Mhairi McGowan: Absolutely. Women have been held in contempt and women have been jailed. There was quite a famous case recently in which a woman was held for three days.

The Convener: What do you put that down to? Is it the court system?

Mhairi McGowan: Yes. It is people not understanding and women not being believed. Sheriffs assume that when women say that there has been domestic abuse, they are lying. Women are told by their lawyers not to mention domestic abuse because it will look as though the women are trying to influence the outcome in court. The woman does not mention the domestic abuse, the hearing goes on, her anxiety rises and then, when it looks as if contact is about to take place, she blurts out that there has been domestic abuse. Of course, the court questions why she is raising that at the end of the process. However, lawyers will have been saying all the way through, "Sheriffs don't like it. Don't raise it too early."

The Convener: So there is an issue about training for solicitors, sheriffs and the court system.

Mhairi McGowan: Absolutely.

Dr Scott: I would like to pick up on a couple of things. First, I am absolutely sure that there is fabulous practice happening in some child contact centres, but there is something that I have to challenge. Women's Aid has spoken to thousands of women and children and our experience, over many years, is that children are forced into unwanted contact every day in Scotland. Much of

that happens in contact centres, not because people are ill-intentioned but because of a system that forces children all the way through. When children arrive at a contact centre, they are there as a result of the system and not because of contact centres themselves.

When I worked in West Lothian, there was a child in a contact centre somewhere—I do not know where—who was reluctant, so the worker there told the child that there were sweeties and toys in the other room, to get them to go in there. In one case, the child was told that their mother was in the room, when in fact it was the child's father. Those sound like isolated cases, but they are repeated over and over in Scotland every day. The system is failing children and is not doing what it says on the tin. Contact centres are not doing what they say on the tin. The protection of children and their interests as the paramount consideration almost never happens. We have to start listening to those voices.

On the court orders and problems with women being put in jail, usually in relation to contempt proceedings, women tell us all the time that they are afraid to tell the truth about what their children are telling them, because they are afraid that they will be sanctioned as a result of being seen to be treating the court with contempt. There is no way, through the system, that women can be sure that people who hear their cases will not assume that they are lying, despite the fact that there is next to no evidence in the literature that says that women consistently lie about domestic abuse.

On training, I absolutely agree about the Judicial Studies Institute course, and we have some good practice to look back at. When we set up the Glasgow specialist domestic abuse court and early in its history, all the sheriffs who heard cases got specialist training. The outcomes of those cases were much better than they are in the routine everyday cases that are being heard these days. For 10 years, the sheriffs have been telling us that they are independent and that we cannot force them to have training—trust me, I would never force a sheriff to do anything. I think that it is possible for us to do what we did initially in Glasgow, which is to say that we cannot force a sheriff to have training but that, if a sheriff is going to hear a domestic abuse case or a case that involves the rights and needs of children, they have to have relevant training.

The problem does not only concern judges; there is a host of legal aid lawyers who do not understand domestic abuse but who, with the best of intentions, take up cases. As a result of that, we end up hearing stories about women who are so deep into the system that it is hard for them to find a way back out, because of the way in which the court system operates, even though they and their children have been harmed by it.

For a long time, we have been talking about the systemic problem with the divide between the criminal and civil court systems, and the way in which they operate in Scotland. I sit on the justice experts group for the implementation of the equally safe strategy. I am happy to see that there is a lot of concern among the stakeholders on that group about that problem.

The problem has been talked about in other places, and there are solutions to it. For instance, in New York, in the context of domestic violence, they have a one-case, one-judge system. In Scotland, what happens all the time is that there is a criminal case in which a perpetrator is convicted of domestic abuse involving harm to the non-offending parent and the child, and then, not very long after that, that child ends up in a room in perhaps the very same court listening to a discussion that has almost nothing—or nothing at all—to do with what happened in the criminal case and is only concerned with how contact can be facilitated in the context of a relationship breakdown.

Training is needed throughout the process, and the system needs to take responsibility for the issue of whose hands we are putting children's interests in.

Ian Maxwell: We do not have the judiciary with us this morning, so I will speak up on their behalf, particularly with regard to the specialist family courts in Edinburgh and Glasgow, which have sheriffs who have extensive experience of family cases and do a difficult job.

We have to remember that sheriffs have to determine whether an allegation of domestic abuse concerns something that has actually happened. There are cases in which allegations are made in order to gain advantage in a contact dispute. The court has the job of sorting out when domestic abuse is happening and when it is merely being alleged in order to give a parent the upper hand. That is a difficult job, and we know of plenty of cases in which the courts have ordered restrictions or complete cessation of contact, so it is not the case that there is an assumption that children should see both parents. As the Scottish Parliament information centre briefing points out, there is nothing in law that assumes that children should see their parents.

The emphasis is very much on the paramount importance of the welfare of children. Sheriffs and judges in our Scottish courts have to do a very difficult job. An English judge once said that now that capital punishment no longer happens, family cases are among the most difficult that sheriffs face.

There is training. We agree that more training should be available, but we feel that it should cover a range of issues—not just domestic abuse. It should cover the proper means of ascertaining children's views and it should cover situations in which children are being unduly influenced by one parent in order that they reject the other, which is known as parental alienation. That is becoming increasingly apparent in the UK and other parts of the world and is a factor that needs to be taken into account alongside domestic abuse. There are very difficult issues to work on.

Avenue in Aberdeen, which is one of Relationships Scotland's member services, has been doing a lot of work commissioned by the courts on talking to children and finding out their views. The service says that it is vital to talk to children several times, because the first time you talk to a child, you tend to hear things being echoed, or they say what they feel they are supposed to say because their resident parent says it, or whatever. You have to build confidence in the child, who has to reach the stage at which they are willing to give more of their views rather than views that they feel that they should give. The work of services such as Avenue should definitely be supported and encouraged in other parts of Scotland.

Judges need to be held to account, but we should not view them as the culprits in the system. The judges work very hard to make difficult decisions. In our view, they are often overcautious in respect of awarding contact.

Contact centres, which are the main focus of the meeting, provide a valuable resource in the system. Unfortunately, they are part of the voluntary sector, so they do not get guaranteed funding every year and often have to go out and raise money to keep going. If anything, the committee should support increased and secure funding for contact centres so that they can build up their training—as has been mentioned—recruit more people and provide more of their services.

The Convener: It has been suggested to the committee that when a court looks at circumstances in which there has been abuse, usually against the mother, that is deemed to be a separate issue that does not impact on the decision on contact. We have heard that the working assumption in the courts is that if the parent is not abusing the child, they should have contact. Is that your experience?

Ian Maxwell: The Family Law (Scotland) Act 2006 mentions the issue of whether the child is present when abuse takes place. A couple of years ago, I was involved in an inner house appeal in which it was judged that the dispute between the parents, which was a two-way dispute—it was not a one-way domestic abuse thing; both were involved—was not relevant. In the lower courts, the contact had been stopped, but the inner house appeal reinstated the father's contact because it was felt that it was more important for the child to have contact with both parents. Each situation is difficult and complicated. The judge has a very difficult job, but there are good examples of judges making difficult decisions having taken all those factors into account.

Stuart Valentine: The Scottish Government supports Relationships Scotland's work. Last year, only £166,000 of the money that we received was used for our child contact centres. Given that we run 46 centres, the committee will appreciate that that funding does not go very far. We have additional funding from the Big Lottery Fund and other charitable trusts, but if there is to be a step-change improvement in facilities and training, it will need to be resourced appropriately.

10:00

Pauline McIntyre: For me, the first thing to say is that we do children a great disservice if we suggest that they just parrot what their parents say to them. Even very young children, who are often not asked for their views, have very strong views about what it is like to live in an atmosphere in which domestic abuse is present.

Ian Maxwell raised a point about a child witnessing incidents of domestic abuse. At the moment, a lot of work is being done around the Domestic Abuse (Scotland) Bill to demonstrate that children are victims in their own right: whether or not they witness abuse, living in that toxic environment is harmful to them. Domestic abuse is recognised as being an adverse childhood event.

I come back to a point that was made earlier on, about a child having to go into a situation in which they are distressed. There is a risk of our perpetuating trauma and distress. That is the case if our expectation is that the mother will usually facilitate the contact and hand over a child who is incredibly distressed—the child may have missed education because they have been wetting the bed, been very upset and had stomach aches, and their mental health may be at risk because of that—and who may be clinging to the mother's leg, to a person whom the child does not know. I cannot imagine any other situation in which that would be seen as being acceptable from a parenting point of view, or from a child's perspective.

I am absolutely not suggesting that it is the contact centres that are forcing children to have that contact. What I say is that there is an expectation and that there are risks to the mother and to the child if they do not comply with a court order. If they are seen as being non-compliant or

difficult, that can cause difficulties for them later in respect of contact. Those are the key issues.

There may well be cases in which domestic abuse is raised but, again, that does children a disservice because the vast majority of domestic abuse cases do not result in a conviction. As has been recognised in the Domestic Abuse (Scotland) Bill, the vast majority of domestic abuse incidents are coercive control incidents that happen day to day. The techniques that are used are often very subtle and manipulative and create an atmosphere of fear. For a parent who allows their child to live in that environment—by which I mean the parent who perpetuates and is the perpetrator of that domestic abuse—that is a parenting choice that will impact on their relationship with their child. It already does so, in that they are allowing the child to be exposed to that atmosphere. That breaches the child's rights to good mental health and to have a say in such situations, and it puts them in a state of fear and alarm. Any system that says that that is okay is not putting the best interests of the child at its centre.

Angus MacDonald (Falkirk East) (SNP): We have covered training for both the judiciary and contact centres quite extensively. I am keen to know what systems are in place to ensure that staff at contact centres are aware of particular conditions that apply to individual cases. I am also keen to know whether the panel believes that there should be a minimum ratio of staff to attendees at such centres.

Stuart Valentine: I am happy to answer that. We at Relationships Scotland believe that the information that comes from the court is not as good as it should be; we often get very little information about the background of the case and are left having to try to get that information from the parents during the intake process. It is another key failing of the process that we do not get sufficient knowledge of the issues that face the families who come to us. We are still able to make decisions, as best we can, about the safety of the contact that takes place, but we are left in the dark about many issues about the families. Angus MacDonald has raised an excellent point. I would be grateful if he could remind me of the second question.

Angus MacDonald: The second question was about minimum ratios of staff to attendees.

Stuart Valentine: Two well-trained members of staff take part in supervised contact, and staff are around during supported contact—sometimes inside the room and sometimes outside it. Supported contact cases are those in which a judgment has been made by the courts and Relationships Scotland that contact is safe and that it is appropriate to go ahead without further supervision. Those constitute the vast majority of cases and are, as we mentioned before, straightforward. A judgment is made in each case on whether it is safe for contact to go ahead.

In terms of raw numbers, we try to have as few cases as possible in the supported contact rooms. In supervised contact cases, there is only ever one case at a time in the room.

Rona Mackay: This might be an unfair question, but what proportion or percentage of children are distressed when they come to your centres?

Stuart Valentine: That is hard to answer—I do not work in child contact centres. The managers who work in the centres say that there is, in the vast majority of cases, some nervousness about going ahead. What we see is that, once contact begins and is established and they get over the first hurdle, there is very good contact and good relations between children and their non-resident parent.

Seventy-nine per cent of our clients who go through the child contact centres say that the process has made a significant improvement to the quality of their family life and their family situation. Of the clients who provide us with feedback, 99 per cent say that they would recommend our child contact centres to others. Although some people do not, or have not, had positive experiences when using child contact centres, many people do. We see 2,000 children each year, plus parents, so that is 4,000-plus people each year going through our child contact centres, and the vast majority of them tell us that they have a positive experience and that the process has made a significant improvement to their lives.

The Convener: I take the point that Marsha Scott has made about us focusing on domestic abuse. Contact centres can be involved simply in a general way that works when there is family breakdown. We all know folk who have experienced family breakdown—it is astonishing, but parents do drop-offs of children but not anywhere near the house, and all that kind of stuff. What proportion of the young people who go to contact centres have been identified to you as being in circumstances in which there is domestic abuse?

Stuart Valentine: Domestic abuse is raised by the courts as an issue and concern for the majority of children who come for supervised contact. Broadly however, the majority of child contacts that go ahead are more straightforward and are about relationship breakdown. Roughly one in ten cases comes through the supervised contact process; there are reasons why the court will order that highly supervised process.

The Convener: Do you track that 10 per cent of cases in a different way? There are another 90 per cent in which you might re-establish contact and it works. However, do you specifically track those or treat differently the 10 per cent of supervised contact cases in which there are issues of violence, domestic abuse or coercive control? If those are the circumstances for a child who is coming in for contact, are there specific things that you do or that you keep an eye out for? Do you record and report back on those?

Stuart Valentine: Yes—in summary—we do. The supervised cases that come to us receive far more intensive oversight with regard to the quality of the contact. We write to the court with factual of accounts of the quality of contact and of what happened during the contact, including details such as whether the child was distressed, or the contact had, for any reason, come to an end. That is a fundamental difference between supported contact and supervised contact. When the court has understandable concerns, the whole process is highly supervised and the quality of the contact is fed back to the court through our court reports.

Mhairi McGowan: For the vast majority of ASSIST's clients who have experienced the system, supervised contact has not been the process through which they have experienced contact centres; rather, they have had supported contact.

It seems to me that we lack knowledge of exactly how many domestic abuse situations there are, and the fact that all sorts of different assumptions are being made in different parts of the process means that there are gaps that we need to plug. I absolutely accept Stuart Valentine's point about funding—when an organisation is struggling with resources, it will have difficulties in respect of what it would like to provide and what it is able to provide by way of services, training or whatever.

It is crucial, even if we do nothing else, that we move forward in such a way that the gaps will be plugged, because when there are gaps we allow abuse to take place, and that needs to stop.

Pauline McIntyre: The CYPCS researched the extent to which the views of children who experience domestic abuse are sought in child contact cases. One thing that came across strongly in that research is that the children who were not asked for their views tended to be younger children who were most likely to have a contact order in place and attend contact centres.

I thought that it might be helpful for the committee to hear about a contact case that I am aware of in which a disabled child was treated differently from their siblings. The disabled child was deemed to be unable to give a view while the child's siblings were. The siblings were very scared of their father and were not told that they must have contact: the disabled child was. There are other issues in the system that relate to particular groups of children and young people.

The assumption is often made that younger children cannot form a view or will be unduly influenced by a parent. In our research report there is a quotation from a six-year-old girl, who said:

> "I do not want him anywhere near me or my family. You make me very very sad ... You was very very bad to me and the family when I was with him he broke my heart. I do not want to go to stay with you at the weekend ... you swore in my mum's face."

There is something very wrong with the system if it is not possible to capture on a routine basis the views of younger children on what it is like to live in that kind of environment.

Edward Mountain (Highlands and Islands) (Con): I would like to drill down into the situation in which contact with a child is made through a contact centre following domestic abuse. Are you convinced that the subtle coercive and abusive behaviour that we have heard about is not continued at the contact centre? Are you sure that we have systems in place to make sure that that does not happen? That causes me some concern.

Stuart Valentine: That is a good question. Where there is supervised contact, our staff are extremely alert to the tricks and schemes that people might try to use to continue the abuse or to get information through the child. We are confident that, in the case of supervised contact at our contact centres, we would pick up on those issues.

Mhairi McGowan made a good point about those cases in which we know from the research that domestic abuse and coercive control can be hidden. It is entirely possible that there are cases that involve supported contact in which that is an issue that has not been fully brought up. Although supported contact is a safe process, it is not supervised to the extent that supervised contact is, and there is the potential for that to happen.

You raise a good point.

Edward Mountain: It worries me that, if the information on cases is not coming to you, you will not know what to look for. Are you still convinced that such behaviour does not happen? It is very important that it does not.

Stuart Valentine: It does not happen with supervised contact. With supervised contact, we would be likely to have more information about that. However, there is an issue with the courts not providing our contact centres with sufficient information about the background of the cases that we are dealing with. That is another gap in the

system that is affecting our ability to ensure that children and families receive the best service.

Edward Mountain: That seems to be a huge gap.

10:15

Maurice Corry (West Scotland) (Con): On the regulation of contact centres, are there any features that should be specified as minimum requirements to ensure that contact takes place in a way that recognises and prioritises the wellbeing of children?

Stuart Valentine: There is no formal external regulation of child contact centres. Relationships Scotland oversees training and the standards and quality of our centres, and we conduct quality assurance exercises on all our centres. If regulation were to be brought in—we would support that process—it would cover many of the issues that we already cover, including training, continuous professional development and ensuring that minimum standards are in place across the country.

There has been a process of development of child contact over the past 25 years. If the next stage involves improving that and moving towards regulation, we will support that process.

Maurice Corry: Do you have any ballpark figures for what it costs to run a contact centre? I am not asking for them now, but do you have those figures in your system?

Stuart Valentine: Yes, we can give you that information.

Maurice Corry: Thank you. That would be useful in helping us to understand the running of the centres.

The Convener: A small part of the funding is Government funding.

Stuart Valentine: Currently, £166,000 a year of Scottish Government money is used to fund the work of child contact centres. Given that there are 46 centres across the country, that is, as you say, a small amount. We receive about £700,000 or so a year from the Big Lottery Fund, and we get other charitable money as well. However, all of that does not amount to a lot of money for what we do.

We have 400 volunteers and staff throughout the country who are passionately committed to working with children and families. They put enormous effort into ensuring that the contacts that they are involved in are positive experiences for children, including in some of the most difficult cases that you can imagine. We must give our volunteers and staff credit for the work that they do.

Angus MacDonald: The Scottish Government has recently written to stakeholders as part of a business and regulatory impact assessment that it is undertaking in advance of a consultation on its family justice modernisation strategy. Included in that piece of work is a question about the regulation of child contact centres. Although I appreciate that the organisations that are represented here this morning might be contributing to that process, it would help our deliberations if we could hear your views about external regulation and whether there is general support for it.

Mhairi McGowan: It is absolutely crucial that there is a set of standards. Anyone who knows me knows that I am constantly arguing about sets of standards for our sector and for consistency across the country. For me, when society says that it wants something, we must ensure that it is delivered. I would support regulation and a way of setting appropriate standards and ensuring that they are met.

Dr Scott: That question relates to something that I wanted to say anyway. We need regulation. If you think about the enormous contrast between the amount of training and monitoring that takes place under child protection arrangements in local authorities and the exposure of women and children who are experiencing domestic abuse to harm in an unregulated and unprotected environment in which there are no Care Inspectorate regulations, it is like looking at two different universes. The public interest is not served by that contrast, and I would support a move to monitor it.

I will add a little bit of out-of-the-box thinking. The child contact centres and Relationships Scotland have been given an almost undoable task, in some ways. Maybe we should consider moving away from the bricks-and-mortar approach to protecting children's interests in this situation and think about what resources need to be made available to courts and to children. For example, a locally, well-trained children's services advocate could meet children in community centres that were set up for children—we have all seen fabulous settings for children—and, if there was going to be contact with a parent, where that was deemed safe, that could happen.

The contact being deemed safe is what is not happening. The bricks and mortar do not matter so much; what matters is that the contact is deemed to be safe, that we get the children's views and that we make sure that contact is ordered in such a way that it responds to their fears and concerns.

Contact does not have to take place in a child contact centre. If we invested money in the local ability to support children, the early years infrastructure and the resources that are available

to courts for ordering contact, we might have a better system that delivered for all children in a local area rather than for the ones who are sent to a contact centre. Most children who are involved in visitation and custody conflicts do not even go through the courts; contact is arranged separately from the court system.

It is important to invest in communities' ability to do the work better instead of trying to support an industry to do it that it would be difficult to parachute in. It is important to talk to communities about what would help them to do it instead of automatically investing in a model that is difficult to deliver and possibly not cost effective.

The Convener: We have only about nine minutes left, and a few folk still want to come in. On the question of funding, will you provide us with information—if not now, later—about charges for those who use a contact centre? I assume that it is a non-resident parent who pays. What are the charges like? You might not have that information to hand, but it would be useful to have it.

Stuart Valentine: I am happy to provide more information. Many of the cases that go to supervised contact are covered through legal aid. There is no charge for the majority of supported contact cases, although there may be a small charge for the intake process. Whenever possible, we seek legal aid to cover the cost.

The Convener: However, in some circumstances, people are charged.

Stuart Valentine: In some circumstances, they are charged. For us, the issue is the ability to pay. If people are able to pay and there is an appropriate charge, they should pay.

The Convener: It would be useful if you could provide us with information on the charging scheme.

Stuart Valentine: Absolutely.

The Convener: I will take comments from Ian Maxwell and Rona Mackay, after which I will need to bring the evidence session to a close.

Ian Maxwell: Stuart Valentine mentioned that contact centres have been around for about 25 years. I used to work for one of the organisations that were crucial in getting contact centres under way in the first place. They developed as the result of a need—they very much came from the ground up. Although I take Marsha Scott's point about things needing to be community based, contact centres have come from the community; they were established because there was a need for places where parents could feel safe when seeing their children. We should be cautious about trying to throw that model out and set up something new.

I agree with Stuart Valentine about the dedicated volunteers and professional staff in the contact centres, who have a difficult job to do. They deal with two parents who are in contact and, when domestic violence is added into the mix, they have to deal with many concerns about the safety of the children. I hope that the committee will take away the view that there is a worthwhile service out there. I agree that the service needs to be better regulated. We also need better training in the courts and the child welfare service in order that the right decisions are made. However, as I have said, the sheriffs who deal with this area have a difficult job to do. I am confident that they are doing sensitive work in the area. They do not always get it right, but we should not condemn them as being insensitive to the serious domestic abuse issues that have been raised by the committee this morning.

Rona Mackay: I agree with Marsha Scott. I have many years of experience in the children's hearings system, and I know that the contrast between that system—along with the getting it right for every child approach—and the contact system is huge. The best supervised contact takes place outwith a social work office and in a child-friendly environment, and nothing can take away from that.

The Convener: There are lots of things for us to think about, and I genuinely thank everybody for their thoughts. I think that I speak for the committee when I say that you have raised a lot of questions for us as we consider how to take forward the issues that are raised in the petition. I think that Rona Mackay has said previously that, even though she was involved in the children's hearings system, she was not really aware of the issue of contact centres and some people's bad experience of them.

There are a number of issues on which we need to look for more information. Are young people inappropriately having contact through contact centres because the statutory system is failing? Is Relationships Scotland making up for the cuts to local government or other cuts? There is also the question of women being in contempt for not taking their children into circumstances that they feel would be harmful.

It is disappointing that we could not get someone from the judiciary to come here today, as judicial training is a whole question in itself. One issue is access to judicial training. Theoretically, courses might be available but, if they run only once in a blue moon, it is less likely that they will be accessed. There is also the question of training more generally.

Funding is an issue. I think that there is agreement on regulation, certainly from Relationships Scotland.

Another issue is the extent to which people can have confidence in the system more generally and specifically in the handling of domestic abuse cases. It worries me that we have heard that the courts might not provide adequate information on families and that court report writers are not trained to draw out the appropriate information.

I think that the committee is agreed that we want to do more work on the petition. Does anyone have suggestions of what we can usefully do?

Pauline McIntyre: It has just occurred to me that the issues that we are discussing might usefully be explored in a child rights and wellbeing impact assessment, which would set out the issues that are involved, the training needs and where children's rights are and are not being respected. That approach is being rolled out more widely across the Scottish Government and it could be a useful tool. It would set out clearly where children are invisible in the system.

The Convener: Would it be reasonable for us to have the Cabinet Secretary for Justice before us? There is a lot of information to get about small technical issues such as the F9 form and about what the Government is doing, which Angus MacDonald asked about. We could discuss those issues with the cabinet secretary. Given that the Domestic Abuse (Scotland) Bill is going through the Parliament, we could discuss the extent to which understanding of that bill will be fed out to other bits of the system. Would that be reasonable?

Edward Mountain: A lot of issues have been raised, which you have summarised effectively, convener. It is important that we have the cabinet secretary before us to explain those matters and be quizzed on them. Personally, I think that that should be done sooner rather than later, because we have heard of real issues that give me concern that the system is not working properly and that it may fail people between now and when we resolve those issues.

Dr Scott: Many of the issues have been raised in the discussions that Scottish Women's Aid and colleagues have had in the past few years with the justice officials who have been drafting the Domestic Abuse (Scotland) Bill. The reference group on children and young people that is part of the equally safe strategy has spent a lot of time talking to officials and stakeholders about the challenges of reflecting the rights and needs of children in the bill. Last week, when I gave evidence on the bill to the Justice Committee, I flagged up that one way in which the bill could still be improved is in having an appropriate way to reflect the experience of children as victims. I sense that the Government is sympathetic to the problem but has not found a solution to it that would not possibly derail the whole bill. We would, of course, be worried about that, too.

It would be welcome if the Public Petitions Committee and the Justice Committee talked to each other—to use a highly technical phrase—about the work that is being done on the bill.

10:30

The Convener: We can certainly flag up the issues to the Justice Committee. We will flag up the *Official Report* of today's evidence session to the convener of the Justice Committee and the Scottish Government.

Angus MacDonald: I concur with Edward Mountain. Because so many issues have come to light since we started looking at the petition in recent months, we need to have the justice secretary before us to address some of those issues.

Maurice Corry: I agree.

Rona Mackay: I agree, too. Would it be possible to have a sheriff or somebody from the judiciary give their side of the story?

The Convener: We can look at that and maybe have a conversation with people who understand these things better than I do. However, why should members of the judiciary not feel able to come and discuss the issues? A lot of people in the judicial system are very positive about the domestic abuse court in Glasgow. We need to find a way of understanding their needs properly.

I should say again that we recognise that many staff and volunteers are involved in trying to make contact work for people; the issue is about improving that system for everybody. I understand that the cabinet secretary will be in front of the Justice Committee next week. We will ensure that the information from this round-table session is available to the Justice Committee.

As everyone has said, we are struck by the range of issues and the context. I am troubled by the idea that contact centres are dealing with more complex cases that, in the past, would have been dealt with in the statutory system. We might want to explore that idea further.

I thank everybody for attending. The session has been really useful and has reflected some of the genuine concerns and important issues that the petitioner has brought before us. I thank the petitioner for allowing her experience to shape our thinking and perhaps—we hope—future provision.

I suspend the meeting briefly before we move on to the next agenda item.

10:32

Meeting suspended.

10:36

On resuming—

New Petitions

Pluserix Vaccine (PE1658)

The Convener: Agenda item 2 is new petitions. The second petition on our agenda is PE1658, which calls for compensation for those who suffered a neurological disability following administration of the Pluserix vaccine between 1988 and 1992. We have the opportunity to hear from the petitioner, Wendy Stephen, whom I welcome to the meeting. It is good that she has been able to come along.

We will start with a brief opening statement of up to five minutes and then move to questions from members. Once we have concluded our questions, we can consider action that we may wish to take.

Wendy Stephen: Good morning and thank you for inviting me to address the committee.

I make it clear that the brand of measles, mumps and rubella vaccine that is the subject of my petition is not in use today and has not been used in the United Kingdom since 1992. The issues that I have raised are historical in nature, but are nevertheless of huge significance to the young people in Scotland who received Pluserix MMR and as a consequence still suffer lasting neurological disabilities.

In October 1988, despite the fact that the Urabe-containing Trivirix vaccine had been introduced and almost immediately removed from use in Canada in 1986 following concerns that it was causing mumps meningitis in recipient children, the Scottish home and health department supported and implemented the marketing of a Urabe-containing brand of MMR—Pluserix—in Scotland. After the Canadian authorities had stopped using the vaccine to await laboratory-confirmed test results to conclusively determine whether it was the cause of the meningitis and the manufacturer had voluntarily ceased marketing it, Pluserix was introduced in Scotland.

Despite a number of early indications that a similar problem to that encountered in Canada was occurring here, the Scottish home and health department continued to support the use of Pluserix for four years, two of which were after the Canadian licence was cancelled in 1990, when it was conclusively proven that the Urabe mumps strain had been isolated from the cerebrospinal fluid of the Canadian children. At that time, the Canadians concluded that the vaccine

"was not considered safe for immunization of Canadian children."

One has to wonder how anyone could have thought that the vaccine was safe for Scottish children.

Eleven months after the introduction of the vaccine here, in September 1989, the Committee on Safety of Medicines reported 10 cases of mumps meningitis. Dr Alistair Thores was the senior medical officer and named point of contact in the Scottish home and health department circulars that advised that Pluserix was to be one of the MMR brands to be introduced into Scotland. He also represented the department on the joint committee on vaccination and immunisation and the sub-committee of the JCVI on adverse reactions to vaccination and immunisation, and he was present when committee members reported on the high incidence of mumps meningitis.

In April 1990, despite the fact that the Scottish home and health department wrote to the JCVI to outline its concerns about the incidence of mumps meningitis and to question whether an alternative brand of vaccine should be used, it still continued to support the use of Pluserix on Scottish children. Dr Thores was also present when, in May 1990, the JCVI heard that three districts had switched from Urabe-containing MMR to the alternative brand. One has to wonder why Scotland, with the very obvious heightened concerns, did not do likewise.

The JCVI's statutory functions do not extend to Scotland and the authorities were not bound to comply, either in part or in total, with any advice given to them by the JCVI. It was, at all times, open to the Scottish home and health department to cease using Pluserix and to switch to an alternative brand.

In September 1992, the Department of Health removed Pluserix from use, and it became the subject of an import ban in 2002, at which time the CSM chairman spoke of the risk of "potentially serious neurological complication" to children.

Pluserix was insufficiently attenuated and considered to be a defective product within the meaning of the Consumer Protection Act 1987. It was originally estimated to cause mumps meningitis at a rate of one case per 100,000 doses, but scientists in Nottingham provided a laboratory confirmed rate of one case per 3,800 doses, a significant difference.

The Department of Health commissioned a study, conducted by the British paediatric surveillance unit, of all reported cases of mumps meningitis, which included a follow-up study a year later to determine any lasting sequelae in the children. Nine cases of sensorineural deafness, a condition which is included in the manufacturer's list of possible adverse reactions to Pluserix, were detected in the cohort and reported on in a paper by Stewart and Prabhu.

The vaccine damage payment scheme only provides financial assistance to applicants who can satisfy the assessors that they have experienced a 60 per cent disability. Some applicants seeking compensation for sensorineural deafness following the administration of Pluserix have been acknowledged as vaccine damaged, but not damaged enough to qualify for a payment.

Despite the fact that the Scottish home and health department was aware of both the historical background to Pluserix from Canada and the fact that identical problems had been and were occurring here, parents bringing their children for the measles, mumps and rubella vaccine vaccination were entirely unaware. It is difficult to see how informed consent could have arguably been obtained in those circumstances.

Unfortunately, in 2008, Miss Nicola Sturgeon, the then health minister, acknowledged:

"Senior medical officer files were not held centrally within the Scottish Home and Health Department but retained by individual doctors during their period of employment and destroyed thereafter."

It follows that relevant files on Pluserix MMR have been destroyed and are not available to the committee.

I respectfully request that the committee consider how this highly problematic dangerous vaccine was able, first, to enter the Scottish market, and secondly, to remain there for four years despite the obvious concerns and problems identified by the Scottish home and health department.

To date, the children who have suffered lasting neurological disability following the administration of the Pluserix vaccine in Scotland have received neither acknowledgement nor compensation. In 1982, Lord Campbell of Alloway in the House of Lords advocated that where a child has been damaged through vaccination, in the interests of the community there should also be

"absolute liability and fair compensation."—[*Official Report, House of Lords*, 1 December 1982; Vol 436, c 1241.]

Today, on behalf of those who have suffered lasting neurological disability following use of the Pluserix vaccine, I seek both.

The Convener: Thank you very much for that statement. There is obviously a lot in it. Although you have alluded to this issue, in order to capture it better, will you provide a picture of the scale of the problem and how it might be addressed? Do we know how many people in Scotland have been adversely affected by the vaccine? I think you said that a person had to have more than a 60 per cent disability before they were counted. Are there

others who were affected to a lesser extent? How should the level of compensation be calculated?

Wendy Stephen: I have no way of knowing the numbers affected. No one has ever collated that information.

The Convener: Do you have any idea how the levels of compensation should be calculated? How would that be done?

Wendy Stephen: The vaccine damage payment unit, as I have said, only pays money to applicants who are more than 60 per cent disabled. Therefore, there will be people under that 60 per cent threshold who are acknowledged as vaccine damaged, but who do not receive payment.

The Convener: You think that they should.

Wendy Stephen: We have a situation where a party is saying to an individual, "You have been damaged. We acknowledge that you have been damaged. We acknowledge that the vaccine has damaged you but, in our opinion, after assessment, you are not damaged enough to qualify for payment." I do not know of many circumstances in life in which someone can say to a party, "My product or something that I am party to has damaged you, but not to the extent that I have to acknowledge that, deal with it and compensate you."

The Convener: Can you think of any examples of someone who has been damaged not having to meet that threshold? Is there anything comparable that you can think of or any other cases of people being treated differently?

Wendy Stephen: No.

The Convener: It just does not seem fair if there are examples of people being treated more fairly.

10:45

Angus MacDonald: The committee understands that payments can be made under the Vaccine Damage Payments Act 1979 and that that does not prejudice a person's ability to claim compensation through the courts. Can you give us your thoughts on how the payments scheme under that act has worked for people who have been adversely affected by these vaccines?

Wendy Stephen: I do not think that it is addressing the problem, because it applies only to those who can meet the 60 per cent threshold and beyond. You have the unsavoury situation in which the VDPU acknowledges to people that they have been damaged by the vaccine but in its opinion, following assessment, they have not been damaged enough to qualify for a payment.

Angus MacDonald: Thank you. I think we need to get some more clarification on that 60 per cent threshold.

Wendy Stephen: It is non-negotiable; the 60 per cent threshold is for everyone across the board. It used to be 80 per cent, and it dropped to 60 per cent, but that still means VDPU assessors examining individuals and saying what percentage of disability they feel that person has.

There are two hurdles to overcome with the vaccine damage payments unit: first, establishing biological plausibility that the vaccine has caused the injury that is being complained about; and secondly, meeting the 60 per cent threshold. We have children meeting the biological plausibility factor and being acknowledged as vaccine damaged, but although they are struggling with their disabilities, they are not being assessed as viable for a payment.

Angus MacDonald: Thank you.

Rona Mackay: Good morning. This situation is to some extent historical, in that it happened before devolution, but the Scottish Government can make voluntary payments to people who have been affected by the vaccine. Are you aware of anyone who has asked for payments from the current Scottish Government or indeed previous Administrations?

Wendy Stephen: For this particular cause?

Rona Mackay: Yes.

Wendy Stephen: No, I am not aware of that.

Rona Mackay: Do you know whether Governments in other countries have awarded compensation to people?

Wendy Stephen: Again, for this particular cause?

Rona Mackay: Yes.

Wendy Stephen: No, I am not aware of that. Not every country used Pluserix MMR; America, for example, only ever used MMR2 product. Three brands of vaccine were implemented in Scotland and, when the problem with Pluserix was discovered and it was eventually removed from use, people switched to an alternative brand.

Rona Mackay: I might have missed this in our papers, but how long have you been campaigning for this?

Wendy Stephen: Approximately 25 years.

Rona Mackay: What bodies have you approached in that time?

Wendy Stephen: I went through MMR litigation in the English courts, and I have approached many ministers. In the early 2000s, my MSP Mike

Rumbles very kindly approached the justice minister at that time, Jim Wallace, and asked about the possibility of bringing litigation in Scotland. At that point, I was told no, but I was granted legal aid in Scotland to find out from a solicitor whether there was any viability in the claim. However, the answer came back that there was no possibility of bringing a case in Scotland.

Again, in 2007, I wrote to the then First Minister Alex Salmond to ask why we were not able to bring litigation in Scotland. At that time, I was advised that Scottish ministers do not give legal advice. I was not seeking any such advice—all I wanted was an understanding as to why we could not bring a legal action in Scotland for these young people.

The Convener: Was the vaccine available across the United Kingdom? If so, are you aware of any cases in the rest of the UK that have been successful?

Wendy Stephen: No. Nobody has ever brought an action specifically for Pluserix. The MMR litigation that was held in England included all vaccines and only addressed problems with autism and inflammatory bowel disease. Neurological problems that were specific to the Urabe mumps strain contained in the Pluserix vaccine were never looked at.

The Convener: So yours is a very specific issue that is quite different from people making a connection between MMR and a consequent autism diagnosis.

Wendy Stephen: It is quite different.

The Convener: It is different because it has been established that the vaccine was a problem.

Wendy Stephen: Yes.

Edward Mountain: Thank you for giving evidence.

I am struggling a little bit. I have looked through our papers and I am trying to come to grips with the amount of people you think have been affected by this. I understand that it is difficult to specify the amount because files have been destroyed and you do not have them, but do you have an indication of how many other people have suffered problems?

Wendy Stephen: No. Nobody has ever brought these people together in one body. Nobody has ever counted the figure or attempted to see how many people out there have been affected by the vaccine.

I can tell you that the Medicines and Healthcare products Regulatory Agency has confirmed to me that it had 11 cases of sensorineural deafness reported to it in connection with the Pluserix vaccine, but that is only one type of condition.

Edward Mountain: Is deafness the only symptom? In your submission you alluded to the fact that it could be a side effect. Are there others?

Wendy Stephen: I would imagine that there would be other side effects, but I have not been involved in any of that. My drive has been more to do with sensorineural deafness, which is listed in the product insert as a possible side effect of the vaccine.

The Department of Health study that was commissioned to investigate the children who developed meningitis after taking Pluserix determined, I think, nine cases of sensorineural deafness. Deafness has definitely appeared following the use of Pluserix.

Edward Mountain: Thank you. I may come back in at the end if that is all right, convener.

Maurice Corry: Good morning, Wendy. You explained in your evidence that, although compensation is available through the courts, people have experienced barriers to accessing it due to issues such as the limitation periods that apply. If the Scottish Government were to agree to make voluntary compensation payments, what principles should it adopt to ensure that the voluntary scheme is suitably accessible and fit for purpose?

Wendy Stephen: My aim is to secure perhaps an ex gratia payment for these children. The only way that we could go back to a legal process would be if we could lift the time bar, but that is a very lengthy, complicated and not always successful road to go down. Undoubtedly, time bars on bringing more legal action will have long since been reached, which is on top of the difficulties that I encountered in the early 2000s when I tried to bring litigation in Scotland. At that point, I was told that the Limitation Act 1980 would prevent me from going forward and that funding would also be a problem. If those issues were a problem back in the early 2000s, they would definitely be a problem for young people today and, as I said, we would probably have to go to court to ask for the time bar to be lifted to allow us to go forward in that way.

Maurice Corry: Have you thought of taking any action against the manufacturer?

Wendy Stephen: That is what the litigation in England was. The only defendant in that litigation was the manufacturer of the vaccine. As we have discussed, that litigation was—

Maurice Corry: Did that come in under the time bar?

Wendy Stephen: Yes.

The Convener: You have not been given advice about the ability to take legal action against

those who prescribe the vaccine, as opposed to the manufacturer. You confirmed that earlier.

Wendy Stephen: We could not do that in early 2000s.

Edward Mountain: Your petition calls on the Scottish Government to acknowledge those who have been adversely affected by the vaccine. Will you elaborate on how you see that acknowledgement being made? How would you like to see it delivered?

Wendy Stephen: Personally, I would like a statement acknowledging that there was a problem with the vaccine and that some, though not all, children who got it have been left with lasting disabilities because of it and they are still going about today with those disabilities. Nobody has ever mentioned Pluserix before; it has never been spoken about, approached or acknowledged. The children exist; they are now young people—young men and women—and this happened to them, but nobody has ever acknowledged that they exist, addressed their problems or said, "Let us have a look at this."

The Convener: I may be speaking for the committee when I say that this is not something that I was aware of until I read the papers on the petition. The petition raises a whole number of questions, including where the threshold lies and why a threshold is established that means that, although you have a problem, it is not enough of a problem. We can instinctively see that, from your perspective, that is something for us to ask further questions about. We are very grateful to you for lodging the petition.

Are there any suggestions about how we might take this forward?

Angus MacDonald: First and foremost, we clearly need to seek the views of the Scottish Government. It might also be an idea to contact the JCVI and the MHRA, which have already been mentioned in evidence, and the Committee on Safety of Medicines, to get their views on the petition.

The Convener: That would make sense. We would want to ask the Scottish Government whether it is aware of the circumstances; whether it has looked at the issue; whether it would contemplate voluntary ex gratia payments and how it thinks those would be calculated. Once we get a response we can think about whether to take more oral evidence. Wendy Stephen has posed a lot of questions on an issue that I do not think any of us were aware of. We get a very strong sense from her of the sense of injustice about what has happened. Part of the injustice may be that this is an issue that is not even being discussed.

Wendy Stephen: The MHRA came into being only in 2003 and therefore was not around in 1988 to 1992 when the vaccine was on the market. The Committee on Safety of Medicines was replaced on 30 October 2005 by the Commission on Human Medicines.

The Convener: That is useful for the clerks to know. We may want to know what was the predecessor body to the MHRA and take advice on which organisations we might get further information from.

Maurice Corry: I mentioned manufacturers earlier. Could we think about having the manufacturers appear in front of us?

The Convener: Can we look to get advice on that?

Maurice Corry: There are some issues within that.

Wendy Stephen: The only avenue that I think might be applicable for the committee to pursue would be to approach Dr Thores, who was in the Scottish home and health department at the time when the vaccine was very much in circulation and was being supported by the department? In view of the fact that the files have all been destroyed, we do not have the luxury of referring to them, but Dr Thores could be approached to give some background.

The Convener: I suggest that we take advice about how best to get access to information about decisions that were made at that time—it might be through the chief medical officer. We are conscious of the difference between the role of the system and the role of individuals within it, and we would want to be careful about that. We certainly want to get a sense of how decisions about vaccines were made and what systems were in place to test those decisions.

Edward Mountain: Wendy Stephen mentioned in her evidence that a decision was made—was it made by Lord Gill?—in relation to people who had been injured as a result of being vaccinated in the community benefit for the eradication of disease.

Wendy Stephen: It was by Lord Campbell of Alloway.

Edward Mountain: It would be useful for the committee to look at that and to have that information among our papers when we look at the next stage, because it would give us a steer on how to deal with the issue.

Maurice Corry: Because the papers have been destroyed and we do not have them, we should get some information from the Canadian medical authorities. Why did they stop the use of the product?

The Convener: I am sure that there must be evidence in the system, with reports on why they made that decision.

Wendy Stephen: I can perhaps assist with that. The Canadians removed their product because it was causing what they thought at the time was mumps meningitis in the children, although they could not be sure, because there was no definitive test then to determine that it was undoubtedly due to the vaccine.

With the passage of time, a test was developed that could determine whether or not the vaccine was the sole cause of the meningitis that was being seen in the children. Once that was determined, with laboratory-confirmed proof that the meningitis that could be seen in the Canadian children came from the vaccine, the licence for the vaccine was taken away in Canada.

Maurice Corry: Thank you—that is very useful.

11:00

The Convener: We will want to do a lot of information gathering ahead of our next consideration of the petition. We recognise what you have brought to the committee's attention. Broadly, this issue has not been part of the conversation in public health. We will gather evidence and we will have a further session in consideration of the petition. Thank you very much for your attendance.

Forestry (Regulation) (PE1654)

The Convener: The next petition is PE1654, by Ian Munn, on forestry regulation. Members have a SPICe briefing, a note by the clerk and a submission from the petitioner. The petition calls on the Scottish Parliament to urge the Scottish Government to develop a statutory code on stakeholder engagement for the forestry industry based on Confor guidance. It also calls for a Scottish Government body to oversee implementation of and compliance with the code.

The SPICe briefing explains that the Forestry and Land Management (Scotland) Bill was introduced on 10 May 2017 but that it does not include provision for a statutory code on stakeholder engagement for the forestry industry, as requested by the petition. Members will see that the petitioner's submission sets out in more detail how local people can be affected by a lack of consultation by the industry.

Do members have any comments or suggestions?

I was struck by the petitioner's comments on the degree of damage that can be caused, including damage to roads and verges. Forestry that has been planted many years ago is now being harvested, but there is no obligation to work with local communities on that, and we can understand the level of concern there. Do people have any views on what the petitioner says?

Edward Mountain: The issue is not covered at all in the Forestry and Land Management (Scotland) Bill, which the Rural Economy and Connectivity Committee has just started to consider. We have heard evidence and we have seen the damage that can be caused to roads as a result of forestry work. It is one of the issues that was brought before the committee on one of the forestry visits that we made. It is a genuine concern. As it falls outwith the scope of the bill, it may be the case that it is for the Public Petitions Committee to contact the Scottish Government and find out whether it would deal with the issue in regulations or in the guidance on the bill, where it is not covered at the moment.

The Convener: Why do you think that the issue is outwith the scope of the bill? I accept that it is, but do you have a view on why it has not been included, if it was evident to the Rural Economy and Connectivity Committee that there is an impact?

Edward Mountain: It is probably too early to say and I probably should not answer for the committee. It was interesting to learn at yesterday's evidence session that there is a lot about felling in the bill that was probably covered by regulation before, and the committee is still looking at why some things are within the bill or outwith it. The issue of consultation will probably fall under a regulation as far as grant schemes in the future are concerned, but I do not think that the bill covers the issue that the petitioner is bringing to the committee.

The Convener: The petition refers to verges and roads but also to the impact of traffic, which is something that we already have examples of in other petitions.

Angus MacDonald: I have some sympathy with the petition, and I have seen at first hand the damage that can be done by heavy trucks moving timber. There has been an attempt by the Scottish Government, as I recall, to move the transportation of timber from road to sea through an initiative called rathad na mara, which is Gaelic for road of the sea, and the Forestry Commission has been heavily involved in that. I have seen it in practice on Mull and at some other west coast sites, and it would be good to get more information on that. It is important to clarify that attempts have been made before now.

The Convener: The very fact that there is a bill addressing the whole question of forestry tells us that the Scottish Government is aware of it. It would be useful to know about the initiatives and

their benefits or limitations, so we should write to the Scottish Government to ask about that.

Edward Mountain: The Scottish Government has a network of roads that are approved as forestry extraction routes and there are limitations on the roads, which I believe are agreed with local authorities, which are responsible for maintaining those roads in many cases. The committee may consider it appropriate to take up with the Scottish Government whether that arrangement needs to be reviewed as part of the Forestry and Land Management (Scotland) Bill in the wider scheme of things, but there is already a basic outline of routes that are available for people to use, although I do not know what the terms would be for it.

Maurice Corry: I have experienced the same thing in Argyll and Bute, where we have gone quite a long way with the Forestry Commission—I am sorry; I should have declared that I used to be a councillor in Argyll and Bute. A lot of timber has gone on to the sea, although there is still a fair amount travelling by road. We should certainly put the Convention of Scottish Local Authorities on the map here, but it is true to say that the situation has been improving.

The Convener: Rather than contacting COSLA, would it be more logical to identify the local authorities for which this would be an issue and speak to them? The issue is whether consultation with local authorities extends to communities where timber transport might have a direct impact. Let us therefore write to the Scottish Government, Confor, the Forestry Commission Scotland, the various industry bodies and others with an interest, such as the Woodland Trust, and any other bodies that the clerks can establish have a view on the matter. We recognise that there may be an issue, and there may be an opportunity in the legislation, so we are trying to put the issue into context. If we make contact with the bodies that I have suggested, we can look at the issue further. Is that agreed?

Members *indicated agreement.*

Elected Members (Threats or Assaults) (PE1656)

The Convener: The next petition is PE1656, by Rob McDowall, on threats to or assaults on sitting members of Parliament, their staff and their families. Members have a SPICe briefing, a note by the clerks and a copy of the petition.

The petition calls on the Scottish Parliament to urge the Scottish Government to bring forward specific legislation that would introduce a statutory aggravation for assaults on or threats against the safety or the lives of elected members and their staff and families. The petitioner highlights the fact that statutory aggravations exist in Scots law, in cases such as those involving assaults against police officers, for example, and in his view similar aggravations should be in place in relation to parliamentarians and their staff and families.

Do members have any comments or suggestions? It is kind of difficult to avoid sounding like we are engaged in special pleading, I suppose.

In this Parliament there has been a desire, through the Emergency Workers (Scotland) Act 2005, to identify groups of workers who put themselves at risk of assault. Cases of fire fighters being ambushed drove that legislative process early on, followed by discussions about the fact that there are other vulnerable groups of workers, such as shop workers who refuse to serve people because they are under-age or are under the influence of alcohol. The petition feels like an extension of that. I understand the motivation behind it but, when you start to identify groups of people who are vulnerable in this way, you have to think about who you are leaving out. Various people are often vulnerable in their workplace.

I am sure that we all understand the motivation behind the petition. We will all have had relevant experiences, particularly regarding threats to our staff—certainly, I have had to deal with such cases, regrettably. The question is whether having a statutory aggravation in this regard is worthy of pursuit. It might be worth seeking out the views of various organisations on the matter.

Maurice Corry: I agree. My concern is that the issue we are dealing with might already be dealt with under existing legislation, perhaps in a hidden way.

The Convener: That is often the case in situations like this. However, I think that the motivation behind earlier legislation was to name the crime. In the context of the terrible things that have happened, such as what happened to Jo Cox, you can understand people recognising the vulnerability of elected representatives—I would extend that concern to local authority elected members and others who are often in the front line when people are feeling let down and frustrated by the system or have a hostility towards it. However, the question is whether, in reality, naming the crime gives any more protection to elected representatives or deters people from committing that crime. That is the bigger question that people have considered.

No one is disputing the motivation behind the petition, and we all recognise the vulnerabilities that we are talking about, particularly in relation to our staff; the question is whether there is a legal dimension to that or whether there are other things we can do to ensure that people are safe.

I do not think we should close the petition at this point. It might be worth seeking people's views on it.

Rona Mackay: I think we should seek further information.

The Convener: We could write to the Scottish Government, the Crown Office and other legal organisations, the police and the Scottish Sentencing Council. In doing so, we should emphasise that we are asking for their views merely to test the proposition in the petition, and that we have not yet taken a view on it. I think that would be fair. Is that agreed?

Members *indicated agreement.*

Continued Petition

Ship-to-ship Oil Transfers (PE1637)

The Convener: Agenda item 3 concerns a continued petition, PE1637, on ship-to-ship oil transfers and trust port accountability. I welcome John Finnie MSP to the meeting.

Members have copies of the submissions that we have received, including a response from the petitioner to those submissions.

In deciding what further action it might be appropriate for us to take on this petition, members might wish to reflect on the fact that we do not have a role in relation to the circumstances of any particular cases that might lead people to petition us for a change in national policy or practice.

Do members have any comments or suggestions? Does John Finnie wish to make a comment on the petition and his involvement in it?

John Finnie (Highlands and Islands) (Green): Thank you for allowing me to join you while you address this issue.

You are right to say that the focus must be on process rather than on any particular live claim. I do not think that there is a widespread public understanding of the process. I would like to know why Scottish Government ministers fail to see that there is a role for them in this matter.

11:15

We understand that Marine Scotland did a number of reports. Where are those reports? Who caused them not to be advanced? Can they be recovered from a bin? Can an explanation be given as to why they were not used?

There are also the questions of the significant inadequacy of the initial application and how the various authorities should respond to that. It is important to note that Scottish Natural Heritage and the Scottish Environment Protection Agency provided responses, so there is a role for them, but it is disappointing that Marine Scotland did not do so.

We need to understand the wider implications and the clarity of the process. There is a distinct lack of clarity on the governance of ports. Public bodies can be democratically accountable and commercial bodies may or may not be accountable to shareholders, but there are big question marks concerning where some of the trust ports sit in the level of accountability. There needs to be clarity on that.

Edward Mountain: Slightly to support what John Finnie said, there is certainly a lack of

understanding of who can and who cannot input into the process. The roles of SEPA, SNH and Marine Scotland are vital. It is also vital that, as they work for the Scottish Government, it ensures that they are aware of the reports and supports them when they go up to the next level. That does not appear to happen.

I understand why the petition has arrived here. Maybe the application in question has been withdrawn, maybe another application is coming and maybe we do not know what is happening. People need clarity. Focusing the Government's attention on the petition and asking it to be clearer about what it is doing would be useful.

The Convener: Are you suggesting that there should be liaison on the process between the Scottish Government and the UK Government?

Edward Mountain: The Scottish Government must ensure that it understands what all the agencies that report to it are saying, and it should make its position on the matter clear. I am not sure that the petitioners—certainly Cromarty Rising—understand what the Scottish Government has done. I may have got that wrong, but that is my understanding.

Rona Mackay: It is important to note that, as it stands, the Scottish ministers do not have regulatory powers in relation to licences for ship-to-ship oil transfers. That is a clear matter of fact.

The Convener: John Finnie wants clarity on the role of the agencies that sit within the Scottish Government.

Rona Mackay: I understand that.

The Convener: And on the extent to which the Scottish Government informs thinking on licensing at the UK level.

Edward Mountain: I totally understand the legislation and that the Maritime and Coastguard Agency will ultimately make the decision, but it is clear that the Scottish Government will have a view on the matter. It has views—rightly so—on a lot of things over which it does not have ultimate control that it can perhaps feed into the UK Government. It should make its position clear on this issue.

The Convener: Do you mean its view on the particular proposal or on the process?

Edward Mountain: On the proposal, based on the information it has been given by the agencies under it: SEPA, SNH and Marine Scotland.

Angus MacDonald: I should declare an interest. I and others successfully opposed a Firth of Forth ship-to-ship oil transfer application in 2006-07, and I spoke in support of Cromarty Rising during John Finnie's members' business debate in the chamber.

I am at a loss to understand where the Scottish Government is on the matter. It was vociferous on the Firth of Forth application in 2007, but the same action that was taken at that time does not seem to have been taken at the Government level.

John Finnie has raised valid points regarding the lack of accountability of port trusts. I tend to agree with Cromarty Rising's suggestion that we take account of the fact that the current Scottish Government guidelines for trust ports in Scotland are not binding in law. The petitioners call for greater Scottish trust port accountability to Scottish ministers. That is an extremely valid point. Many of the port trusts seem to be—for want of a better term—a law unto themselves. That might be an issue that needs to be looked at in greater detail.

The petitioners also make a valid point about the need to

"Change the sequence of steps in the licencing process for Scottish trust ports"

and

"Introduce a pre-submission step where compliance with Scotland's National Marine Plan, European Protected Species Licencing, Habitats Regulations and independent financial assessment is conducted prior to a STS licence application being submitted to the Maritime and Coastguard Agency."

Those are all valid points that should be included in any contact we have with the Scottish Government on this issue.

The Convener: That is helpful.

John Finnie: As a parliamentarian, I want to be in a position, not to understand the minutiae of the legislation that is involved, but to refer any constituent who wishes to understand the process to a very clear sequence of events. This is not and should not be a partisan issue, but it is not helpful for the Scottish Government to say, "It is nothing to do with us", when the submission from the Scottish Environmental Protection Agency uses phrases such as

"where the competent authority is mindful of the standards set by Scottish domestic legislation".

The environment does not know boundaries anyway, so this is not about constitutional or party political matters; it is about having a standing process to make sure that all the legislation comes together to ensure the maximum protection for our environment. If we have that, there should not be undue impact.

There is a very close link, as Angus MacDonald has said, between the accountability process and reference to communities. Nairn is directly on the other side of the water, and there was no contact with it. There is a vibrant community campaign that wants to understand the process and to know

that, if there is another application—which I hope there will not be—due process will be followed.

Why would Marine Scotland prepare the ports and the ports not be utilised? They were prepared in good faith to service a process. Everyone needs to understand that process.

The Convener: Given what you have said, Angus MacDonald, what would you do about getting more information?

Angus MacDonald: We need to write to the cabinet secretary highlighting the points that Cromarty Rising has raised. We also need to ensure that the Scottish Government engages with the UK Government and that the Marine Scotland report is submitted. I am not sure whether it has been already—maybe Mr Finnie can clarify that.

John Finnie: I think that that would depend on there being a live application.

It is good to try to ensure that there is an understanding of the process on the basis of what has happened. Clearly, there are flaws in the process, never mind the application. There should be a very clear understanding of who does what when, and what the relationship is. Ultimately there is no dispute about who makes the decision—as Edward Mountain said, it is a reserved matter—but the decision has to be informed.

The Convener: So we would write to the Scottish Government to ask what changes to the process it thinks would help it inform the decision—not to ask it what information it provided to the UK Government. We would also ask what the Scottish Government's submission to the UK Government on the licensing process is going to be. Have I got that right?

Angus MacDonald: Yes.

Edward Mountain: It is all very well for the Scottish Government to submit reports from the agencies, but it also has to take a position on the reports that are submitted to it. I cannot see that any other organisation would not make its position clear at the same time. That must be part of the process.

I would go one step further and say that, in order to help focus and keep this going—you are not going to thank me for this—the petition should be kept open until the process is completed.

Angus MacDonald: It has to be said, and I am reiterating, that the Scottish Government took a decision on this in 2007, just after the election.

Edward Mountain: Not on this application.

Angus MacDonald: Not on this one.

The Convener: On a similar one.

Angus MacDonald: It was identical, actually.

The Convener: So, we should write to the Scottish Government to ask it how it thinks the system should be improved, what information it has and its view of a proposal that can be fed into licensing systems.

If the decision is made at a UK level, but in the sure and certain knowledge of the view of the Scottish Government, that is not saying that the Scottish Government wants to make the decision. The Scottish Government would be telling the UK Government what its view is and what it is doing to improve the process.

There is also an issue about how the trust ports work. We might want to ask for a response on that as well.

Maurice Corry: Certainly—I agree with that.

The Convener: Is that everything?

Edward Mountain: Will you keep the petition open?

Members: Yes.

The Convener: If we are asking for a response, we keep the petition open until such time as we have the response.

We are alive to the fact that it is not about the specific proposal but the process that applies to any such proposal, and we are trying to learn from the concerns the petitioners have highlighted to us.

That is agreed. I thank you for your attendance.

Meeting closed at 11:26.

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