



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 30 May 2019

Session 5



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Pàrlamaid na h-Alba

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PUBLIC PETITIONS COMMITTEE

10th Meeting 2019, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Angus MacDonald (Falkirk East) (SNP)

COMMITTEE MEMBERS

*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*David Torrance (Kirkcaldy) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Jackie Baillie (Dumbarton) (Lab)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Public Petitions Committee

Thursday 30 May 2019

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Johann Lamont): I welcome everyone to the 10th meeting in 2019 of the Public Petitions Committee.

There are four items on the agenda. Item 1 is a decision on whether to take in private item 4, under which the committee will consider a draft annual report. Do members agree to take that item in private?

Members *indicated agreement.*

New Petitions

Body Cameras (National Health Service Staff) (PE1718)

09:30

The Convener: Under item 2, the committee will consider two new petitions. The first new petition is PE1718, by Alex Wallace, which calls for body cameras to be introduced for all national health service front-line and theatre staff.

In his petition, Mr Wallace states that he considers that the use of body cameras would act as a deterrent to verbal and physical abuse being directed at NHS staff. He also appears to suggest that it would protect patients from abuse by staff.

The briefing paper that the Scottish Parliament information centre and the clerks have prepared refers to the Scottish Government's "Health and social care staff experience: report 2017", which sets out figures on levels of abuse that were experienced by NHS staff. It notes that there are no corresponding figures for the levels of abuse experienced by patients at the hands of staff.

The petitioner explains in his petition that the use of body cameras for other emergency services has had a positive effect. Paragraph 8 of our briefing paper lists their benefits, as described in a 2015 report by the International Association for Healthcare Security and Safety. The report also highlights concerns about the potential impacts on privacy, patient confidentiality and the relationship between staff and patients.

Our briefing paper refers to a recent pilot conducted by Northamptonshire Healthcare NHS Foundation Trust, and addresses in further detail the issue of data protection.

The Scottish Government does not appear to have a policy position.

Do members have any comments or suggestions for action?

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I note that the dignity at work survey of NHS staff found that 29 per cent of staff had received verbal or emotional abuse from patients or the public in the past 12 months. That is quite a considerable number. Perhaps that reflects why ScotRail brought in the use of cameras. Obviously, individuals and employers should be able to choose whether to use them.

There is a case here. We need to find out more about the matter and how body cameras could be of use.

Brian Whittle (South Scotland) (Con): The petition is really interesting. The initial response to

it is that we are looking at cost. I know that the petition does not mention this, but we have become such a litigious society and our healthcare professionals are under so much pressure now that they seem to spend half their time justifying decisions that they have made in the workplace. I wonder whether the proposal could have a positive impact on the time away that staff require not just for litigation but to explain to managers why they took certain actions. I wonder whether one of the by-products would be a positive impact on such things.

Angus MacDonald (Falkirk East) (SNP): Given the success of body cameras in other emergency services, I can see why Alex Wallace lodged the petition, which I welcome.

The convener mentioned the Northamptonshire Healthcare NHS Foundation Trust pilot, which seems to have had some success. It found that the use of body cameras was acceptable to patients and staff, and that it resulted in a reduction in incidents and complaints.

I have a lot of sympathy with the petition, and I hope that the matter can be investigated further. However, it is clear that we need to seek the views of a number of stakeholders before we can proceed with the petition.

David Torrance (Kirkcaldy) (SNP): I think that, if body cameras are going to be used, they would act as a deterrent. We should look at the number of incidents involving NHS staff. Staff in the Scottish Ambulance Service and Carstairs hospital have most commonly experienced abuse. If body cameras were used, we would be able to capture the abuse and probably deter people from doing such things.

The Convener: I do not know whether it will deter anyone who behaves really badly in, say, accident and emergency on a Saturday night—after all, why do they do that sort of thing in the first place? However, I could see it being used not just by the emergency services and in A and E but, as has been suggested, in operating theatres, and I would be interested to hear whether people who work in the health service, particularly healthcare unions, have a view on that.

Clearly one of the issues is the protection of staff, but we have also recently seen undercover journalists using cameras to expose the terrible abuse of very vulnerable people, and I wonder whether the unions have looked at the measure as a means of protecting them from false accusations. We might also want to talk to patient organisations that represent those who use the health service. Maybe it is just me, but the use of cameras feels quite intrusive in the relationship between the person looking for help and medical

professionals. Perhaps we would need to look at the limitations in that respect.

Brian Whittle: Interestingly enough, cameras are already used in operating theatres, with, for example, live streaming between medical professionals. In fact, I have a friend who wears a camera on his glasses when he performs surgery. There is a precedent for this sort of thing, but I suppose that we are talking about making it more formal.

Rachael Hamilton: I do not know whether this is the case in all of them, but I know of ambulances that have on-board cameras; in fact, there was a case in England in which evidence from such a camera was used in court to show how a patient had suffered. Closed-circuit television and on-board cameras are currently being used—although I am not sure whether that is also happening in Scotland—and perhaps the proposal in the petition could complement that approach. In any case, I think that we have to look at all the ways in which these things are being monitored.

The Convener: We should also think about the balance between cost and benefit, because if this is hugely expensive, we will need to look at what we are actually trying to stop and what its purpose is.

We seem to be agreeing to write to the Scottish Government for its view and to other key stakeholders, particularly the unions but also the Scottish Ambulance Service and patient groups. We could also write to Northamptonshire Healthcare NHS Foundation Trust to find out what its findings were. Moreover, we could ask the Scottish Information Commissioner to assist us with the question of confidentiality. Are we agreed?

Members indicated agreement.

The Convener: We should certainly thank the petitioner for giving us plenty of food for thought, and we look forward to the responses.

Fire Safety (Stay Put Policy) (PE1719)

The Convener: Our second new petition is PE1719, on the review of the fire safety stay put policy, which has been lodged by Rachel Gibson on behalf of tenants of Gartcraigs Road and which calls on the Scottish Government to review the current stay put policy as it applies to the fire strategy for existing multistorey residential buildings.

Under current advice provided by the Scottish Fire and Rescue Service to residents of multistorey flats—which are generally considered to be buildings of six or more storeys—on what to do in the event of a fire, residents should stay in

their flats if a fire occurs in a communal area or some other flat and leave only if they are affected by heat or smoke or are told to do so by the police or fire service. Different advice applies to residents if a fire occurs in their own flat. The petitioner's position is that all residents should be immediately informed of a fire if it spreads from the flat in which it originated instead of being informed through the heat or smoke coming from it or by the emergency services.

In June 2017, the Scottish Government established a ministerial working group on building and fire safety, and in the group's final report, which was published in December 2018, it recommended the development of specific fire safety guidance for residents of multistorey flats in Scotland. The guidance, which will be developed in collaboration with the SFRS and tenants and residents panels, is due to be completed by late 2019.

Do members have any comments or suggestions for action?

Rachael Hamilton: Communication is key in relation to the stay put policy, which is not applied all across the United Kingdom. The Local Government and Communities Committee looked into such issues, but it did not look specifically at the stay put advice, although the committee will return to the issue, depending on its work schedule. The petitioner makes a very good point, and we do not want to lose sight of the importance of clear communication when a fire takes place. I think that we should hold on to the petition, as there is no indication that we should pass it on to the Local Government and Communities Committee when it considers its next steps.

The Convener: It strikes me that, post Grenfell, the issue must affect anyone who lives in a multistorey building. We can understand why the petitioner is concerned about getting the policy clarified, so that people are clear about the best approach. How do people make such judgments? If someone had the responsibility for letting people know, people would know how to react. The stay put policy applies only in certain circumstances, so residents and tenants quite rightly deserve certainty—or as much certainty as it is possible to give—about what they should do.

Brian Whittle: We can imagine the serious concerns that we would have if we were in a flat above a fire; our gut reaction would be to get out. The petition is very good, and we need to explore the issue that it raises. As Rachael Hamilton said, it has been explored by the Local Government and Communities Committee, so I am keen to push the petition forward. There are a few people whom we could write to in the first instance.

The Convener: For your information, I point out that the Local Government and Communities Committee's work related more to building regulations than to community safety matters. We could flag up the issue to that committee, but I think that we should do a wee bit of work on it ourselves first. We could write to the Scottish Government, the Convention of Scottish Local Authorities, housing organisations and the Scottish Fire and Rescue Service, which must be thinking about the matter and must recognise that it is an issue that people are aware of and concerned about. Such organisations could provide information to allay people's fears.

There were a particular set of circumstances at Grenfell, and questions about the safety of buildings and the fabrics that are used have been explored. However, it would be good to get information on best practice, on where it is best for people to be, and on how they should respond to fire. There is a more general point about how educated we are in how we deal with such emergencies, regardless of the type of accommodation that we live in.

Should we do anything else?

Rachael Hamilton: I will make an observation. At the count last week, everyone in the room that I was in was given a copy of the fire procedure. The building operated a stay put policy, because it was directly linked to the fire service. That was the first time that I have been in a building with such a policy. As children, we were all educated to get out of a building if there was a fire, and young people are taught standard and set ways of dealing with things, such as dialling 999. The issue is so important because things being unclear can cause confusion, particularly with elderly people and young people. They have been taught to do things in a certain way, but then they might be told to do something in a different way. The evidence that we get back from all the organisations might show that there could be different ways of teaching young people how to evacuate, depending on the type of building.

The Convener: Yes. Some high-rise buildings will have a concierge but others will not, so how would people be told what the policy is?

09:45

Angus MacDonald: I hate to point this out, but there seems to be a bit of confusion even from the petitioner. The Scottish Fire and Rescue Service advises residents to stay in their flat if a fire occurs in a communal area or other flat and leave only if they are affected by heat or smoke, or are told to do so by the police or fire service. Different advice applies to residents if a fire occurs in their own flat.

Although the petitioner states:

"The stay-put policy is not applied UK wide, for instance, Greater Manchester Fire Rescue Service advises tenants in high-rise buildings that if there is a fire in any flat they should 'get out and stay out'",

our briefing paper on the petition informs us that the stay put advice was reiterated by the National Fire Chiefs Council in May 2018 and that Greater Manchester Fire and Rescue Service advice on fire safety in high-rise flats is the same as that issued by the Scottish Fire and Rescue Service. Therefore, you can see why there is confusion. It would be good to find a way, if we can, to make sure that the advice is simplified and everybody knows what it is.

The Convener: Yes. To go back to the example of Grenfell, people did as they were asked, but there was still a very significant loss of life. Nonetheless, people have to be confident about what the advice is, otherwise they will act on instinct. From that point of view, it would be helpful for us to establish the view of the Scottish Government, COSLA, the Scottish Federation of Housing Associations, the Scottish Fire and Rescue Service and the National Fire Chiefs Council. I think that that is a substantial amount to be getting on with. Do members agree to write to those organisations?

Members indicated agreement.

The Convener: I thank the petitioner. We look forward to getting responses from those organisations on that issue.

Continued Petitions

Social Care (Charges) (PE1533)

09:46

The Convener: Agenda item 3 is consideration of six continued petitions. Our first continued petition is PE1533, on the abolition of non-residential social care charges for older and disabled people, which was lodged by Jeff Adamson on behalf of Scotland against the care tax. I welcome Jackie Baillie to the committee.

At its meeting on 10 January 2019, the committee heard evidence from the Cabinet Secretary for Health and Sport. Following the meeting, we wrote to her to request further information on the costing of free personal care, how the extension of free care was to be monitored, stakeholder engagement and COSLA's guidance on care charging.

The cabinet secretary's letter explains that funding for free personal care is part of a block grant to local government; it also provides the latest figures that are available on those who are in receipt of care and related costs. The petitioner's response raises a number of issues, particularly on the costing of free personal care and the basis on which the Government has arrived at those costs. The petitioner also disputes the Government's estimates of average weekly hours of personal and non-personal care, which, in turn, affect the numbers of those who are eligible to benefit from the extension of free personal care.

There is a lot of technical detail in this area, which I found challenging when I was working through the submissions. I was particularly struck by the fact that the issue on the extension of free personal care is to do with the charge for care services and by the idea that the Government could be investing more money but a significant number of people might still be paying exactly the same amount. As far as I can see, a person could have 80 hours of personal care, of which 40 hours will be free, but there does not seem to be anything stopping local authorities doubling the cost of the chargeable part of the care, meaning that people could end up having to pay the same amount. I think that that is an issue that we would want to explore further.

Brian Whittle: My view is similar to yours, convener. The dichotomy is that changing the number of free hours does not preclude councils from charging more for those that are not.

The Convener: The other point that the petitioner makes—quite forcibly—is about the difference between the charge for under-65s and the charge for over-65s. I was taken aback by that

gap. The difference seems to be simply to do with what age the person is and nothing else.

The Government has taken significant steps through Frank's law, as a result of the petition that we dealt with on the subject, but the question is whether the approach that has been taken will actually make the difference that most people would have hoped for.

Rachael Hamilton: The petitioner states that there is not equal treatment and that there is "blatant age discrimination" in the

"charging guidance that sees single people over 65 not pay charges until their income is over £210 per week while single people under 65 pay charges when their income is over £135 per week",

which

"can mean that younger disabled adults pay as much as £75 per week more in charges for exactly the same service."

The Convener: That goes back to the point that it is people's right to have a level playing field so that they can work. I do not know how we legislate on that, but I find that point compelling. People might be theoretically entitled to care but, because of the cost, they are denying themselves that care and therefore the opportunities that they might have if they were not disabled. There is a big issue of equity there.

Jackie Baillie might want to comment.

Jackie Baillie (Dumbarton) (Lab): The petition is as relevant now as it was when it was first brought forward. I support the convener and other members in highlighting the anomaly whereby charges have been removed in one area but replaced with increased charges in another area so that, overall, nobody benefits from the additional money that the Scottish Government has put in.

However, I want to take a step back from that, because that is just one element of what the petition is driving at. Frankly, in my constituency, the problem is getting worse. The cuts that local government has faced over time have had an impact on social care services. Instead of cutting social care services, many local authorities are increasing the charges for them, so we are moving even further away from the principle behind the petition, which is that there should be no care charges for non-residential services.

The problem is getting worse, and I will illustrate that in real terms. A Government minister told me in the chamber the other day that the Government is putting more money into local government, so something is not squaring up here. For example, in West Dunbartonshire, charges for community alarms, which are an essential preventative service, have gone up by 100 per cent and, as a

consequence, more than 200 vulnerable older people who need community alarms have cancelled them. I always understood our policy to be about funding prevention and avoiding having to fund people in crisis, because that costs the system, and us all, so much more. Funding for community alarms is a preventative measure that does not cost our system a lot, yet it ends up preventing people from going into crisis. In one month alone, 200 community alarms have been cancelled.

With learning disability services, the council has packaged three separate services that attracted three separate charges and, again, has increased the cost by almost 100 per cent. The issue is touching on every section of the care sector and every group of people. Therefore, it would be helpful to go back to the wider principles of the petition.

When the health and social care partnerships were formed, many of us questioned how they would work, because they bring together healthcare, which is provided free at the point of need, with social care, which is not provided free—it involves an assessment of a person's needs and finances together. Somewhere in that, we have got the balance wrong. The whole point of having health and social care partnerships was to prevent people from going into secondary care and to provide care as close to home as possible. Through this charging—or overcharging—policy, we are in danger of creating more pain and cost in the system.

Would it be appropriate for the committee to invite the Government to join COSLA in doing a review? I am conscious that our history is peppered with COSLA-Scottish Government working groups that have not achieved much, and I am on record as saying that, if they were to receive performance-related pay, they would get nothing at all.

That said, the inconsistency of eligibility criteria across Scotland remains an issue. There are huge differences in the charges that are applied to people who receive social care, never mind the issue of there being no charge at all. Although I respect the ability of a local authority to do things flexibly on the ground in the interests of their constituents, it is ridiculous that, in a country as small as Scotland, we have the level of charges and the inconsistency of approach that we have. Therefore, I respectfully suggest that the committee considers encouraging the Scottish Government to do something.

Brian Whittle: As I often say in these cases—Jackie Baillie has touched on it—there is a dilemma around the integration joint boards with regard to the fact that health care is free at the point of need and, currently, social care is not. The

Health and Sport Committee is investigating that balance in some depth at the moment. It might be possible for us to draw in some of that committee's findings, as they might speak to that dilemma or inform our thinking on it. The fact that the two systems are not quite in balance is fairly evident at the moment. We are still at an early stage in the process, as the IJBs have been in existence for only two or three years. There is definitely some information about that relationship that we could get in the short term that would inform our investigation.

Rachael Hamilton: I do not think that, when we took evidence from the cabinet secretary, we received a sufficient answer about why there was such inconsistency in service costs across the local authorities. Yes, we want to give local authorities the ability to deliver the best possible care to people and, yes, there will be different needs because of the varying geographies across local authority areas, but it seems that the service cost is just ballooning. That is perhaps connected to the fact that people have to receive free personal care. I honestly do not think that the cabinet secretary had an answer for us. Given the evidence that we have, I do not know how to square this.

The Convener: I suppose that the issue involves the fact that, theoretically, there is free personal care, but it is possible to tighten up the access to it so that, rather than it being rationed by cost, it is rationed by eligibility. There is a big question about how consistent that is across the country. There should be minimum standards wherever people are, with flexibility for local authorities, because, for instance, councils in remote and rural areas face challenges that are different from those that urban councils face.

I was taken by the argument that, although a move has been made and the policy has been changed, the poorer you are, the less you benefit from it. Are we ending up with a policy that we feel better about but which, on the ground, is no better than it was?

Brian Whittle: That raises the issue around the balance between the implementation by local authorities of a structure that is decided on by Government and how much autonomy we give to local authorities in that regard. It strikes me that there should be a base level that everybody works from.

The Convener: I suppose that, taking into account the point of view of local government, we must work from the assumption that no one really wants to restrict access to a service just for badness, and that something is happening around budgeting.

We have had this petition for a long time. It is a huge issue, and we cannot sort it all out. As has been said, there are some technical issues here around the implementation of the policy—issues involving unintended consequences or a policy that is not fully fleshed out. I am interested in the possibility of our doing more on the issue, but I am also conscious of our limits. We might want to reflect on whether the Health and Sport Committee is going to examine the issue in more depth. In the meantime, we might want to ask the Government some more questions.

Brian Whittle: I definitely think that, as Rachael Hamilton said, we need clarification of some of the answers that the cabinet secretary gave. We should certainly probe a little bit deeper and get some more in-depth answers from her.

Angus MacDonald: I agree that we need to look into the matter in a lot more depth. There is certainly an issue, as highlighted by the petitioner and by the convener earlier, with regard to the extension of free personal care changing only the service cost calculation and not the charge that service users are asked to pay.

I am struck by Jackie Baillie's suggestion that there should be a joint working group involving the Scottish Government and COSLA. The complexities need to be ironed out—there is no doubt about that—so I am happy to support that suggestion.

10:00

The Convener: I suggest that we write to the Scottish Government to seek clarification on the issues that have been raised in the further submissions that we have received and to ask whether some joint work with COSLA would be possible. We could perhaps write to COSLA as well, to find out whether it regards that as necessary; I presume that COSLA expects local government to meet some minimum standards in this area.

Is there anything else that we can do?

Rachael Hamilton: The petitioner makes the point that the data was not sufficient to inform the policy development.

There is a list of the data sources in the committee's briefing; we should ask whether the data was sufficient to make the assumptions that were made.

The Convener: We can include the petitioner's submission in our correspondence with the Government, because those points are made clearly by the petitioner. We can highlight that question about the data.

Do members agree to take those actions?

Members indicated agreement.

The Convener: I thank Jackie Baillie for her attendance, and we look forward to the Scottish Government's response to the petitioner's concerns.

Abusive and Threatening Communication (PE1652)

The Convener: PE1652, on abusive and threatening communication, was lodged by Irene Baillie. The petition was last considered in December 2018, when we invited the petitioner to comment on the final report of the independent review of hate crime legislation—the Bracadale review. Although the petitioner thinks that the report is “fantastic”, she is concerned that it does not cover the issues raised in her petition.

The Scottish Government has indicated that it is currently considering responses to its consultation on the Bracadale recommendations. It maintains its position that there are potentially

“a number of practical difficulties”

in relation to delivering what the petitioner is calling for, noting that some matters are reserved to Westminster. The Scottish Government also refers to on-going work on this issue, including the UK Government's white paper on online harms and the Law Commission's review of the law in England and Wales. It states that it

“will carefully consider any proposals”

to change the law in this area, where the relevant powers are devolved.

Do members have any comments or suggestions for action?

Rachael Hamilton: Lord Bracadale said that he did not consider that any further legislative changes were necessary at this stage, but he went on to say:

“I would encourage the Scottish Ministers ... to consider whether the outcomes of the Law Commission's work on online offensive communications identify any reforms which would be of benefit to Scots criminal law across reserved and devolved matters.”

I believe that the Scottish Government is currently considering the consultation responses that have been received. Is that correct?

The Convener: Yes.

Rachael Hamilton: Therefore, the Scottish Government will look at it from a devolved point of view and I look forward with interest to the results of that consultation.

The Convener: We need to think about whether we can take the petition any further forward. Specifically, there is the idea that if a message is sent from your phone, you are culpable. The

Scottish Government does not feel that that is a practical policy. I do not know what people's views are on that. Although I understand and sympathise with the petition and I recognise that abusive and threatening communication—including online abuse—is an important issue, I am not sure whether a strict liability approach would be fair. It could cause greater issues in the court system.

Brian Whittle: I agree. I do not think that you can have strict liability in this case. What if somebody got hold of your phone or laptop and fired something off? It would be difficult to try to hold the owner of that device to account. This issue is not going away; it will keep coming back. It is not just an issue for Scotland; it is a global problem that nobody has managed to find a solution to. However, I think that it would be difficult to deliver what the petitioner is specifically asking for.

Angus MacDonald: I agree. The main sticking point is the strict liability issue, and the Government has stated that it is not convinced that it is appropriate to turn the making and sending of abusive and threatening communications into a strict liability offence. I fully understand where the petitioner is coming from, but it will be difficult to implement any legislation that includes strict liability.

The Convener: As far as continuing the petition is concerned, our main options are to think about whether we can do anything more or whether we should simply close the petition. We can underline our recognition and understanding of the importance of the issue, but the question that we are wrestling with is whether this particular solution is the right one.

David Torrance: I am quite happy to close the petition under standing orders rule 15.7. Given what the Scottish Government has said, I do not think that we can take it any further.

Brian Whittle: Again, I point out that the issue will occur and reoccur, and the Parliament, never mind the committee, will have to consider what can be done about it. However, given what it is asking for, I do not think that we can take the petition any further, and I agree with David Torrance that, on this specific issue, the only thing left is for us to close the petition.

Angus MacDonald: There is still some hope for the petitioner, because the Scottish Government says in its response that it

“continues to engage with both the Home Office and”

the Department for Digital, Culture, Media and Sport and that it will

“carefully consider ... proposals to reform the law ... falling within the devolved competence of the ... Parliament”

arising from other pieces of work, including the Scottish Law Commission's on-going review of the law in England and Wales. The issue is definitely on the radar of the Governments north and south of the border, and the petitioner should take heart from that.

The Convener: The petitioner would also be able to engage with the on-going consultations, and I am sure that the clerks will be happy to give advice on how she might be able to do that. Being part of that work would provide an opportunity to underline the issues that have brought the petition to the fore.

Moreover, as we always say, the petitioner will have the opportunity to bring back the petition if, in this case, she is not satisfied with the Scottish Government's response to the UK work. I think that we would be alive to looking at the matter again.

Do we agree, then, to close the petition under standing orders rule 15.7, on the basis that not only has the Scottish Government indicated that it remains unconvinced of the practicality and appropriateness of the action that is being called for, but it has committed to considering any proposals to reform the law that might fall within the Scottish Parliament's competence in light of the work being undertaken in England and Wales? Moreover, do we also agree to encourage the petitioner, if she so wishes, to submit a response to that work and to take advice from the clerks on how she might engage in that respect?

Members indicated agreement.

The Convener: We thank the petitioner for submitting the petition and appreciate the significance of the issues raised.

Cat Population (Management) (PE1674)

The Convener: PE1674, on managing the cat population in Scotland, has been lodged by Ellie Stirling and calls on the Scottish Government to review the code of practice under the Wildlife and Natural Environment (Scotland) Act 2011 and to identify measures to control the soaring domestic cat population and protect the existence of the Scottish wildcat.

When we last considered the petition in November 2018, the Government's consultation on the licensing of dog, cat and rabbit breeding activities was on-going. Last month, the Government published an analysis of responses to that consultation. The petitioner, who we understand responded to the consultation, considers that the thresholds proposed in it would not prevent the high level of cat overpopulation and argues that they could lead to more than 300,000 new pet cats per year not being able to

find a home. The petitioner has also previously expressed concern about the risk of hybridisation between domestic cats and the Scottish wildcat and refers to a recent report by the cat specialist group of the International Union for Conservation of Nature, which concluded that the threat of hybridisation was accelerating.

Although the petitioner considers that the level of support for the measures that are outlined in the Government's consultation represents a step in the right direction, she argues that it is more a case of trying to change people's habits when it comes to acquiring cats.

Do members have any comments or suggestions for action?

Brian Whittle: As I think we said when we previously considered the petition, the figures that are quoted are remarkable. I would not have known about them had the petition not brought them to our attention.

The petitioner is right that there is a significant issue here that needs to be addressed. I would like the Cabinet Secretary for Environment, Climate Change and Land Reform to come and speak to us about the Scottish Government's position on the matter. We could ask the petitioner to submit some questions to us, which we could then put to the cabinet secretary.

The Convener: Okay. Are there any other views?

Angus MacDonald: I agree with Brian Whittle. It might well be an idea to get the cabinet secretary in to explain exactly what the Scottish Government's position is.

I cannot help thinking back to the passing of the legislation on the docking of working dogs' tails and the flak that came from that. I am concerned that uninformed members of the public who saw a culling of cats or whatever in the future might well respond in the same way. It is a difficult issue to deal with, and no doubt there will be flak whichever way the Government goes, but there is no doubt that the matter has to be addressed.

Rachael Hamilton: Should we also consider the impact on the veterinary profession, given its interest in the matter? There is a cat neutering group, which is a coalition of veterinary and welfare bodies, and it advocates the neutering of cats for welfare reasons. At the end of the day, there will be a cost to be allocated. Would such groups have the responsibility? If the Scottish Government suddenly created a new policy, who would pay for it? Is there an implication that the service would become free at source?

The Convener: I know that a lot of the cat charities, such as Cats Protection, offer that service. They will bring in feral cats and neuter

them, and when they are rehoming cats, they do that and pay the veterinary fees. A lot of people are doing that voluntarily at the moment. I presume that, if the cabinet secretary is looking at this, she will have to do an impact assessment and look at the costs. It would be unreasonable to say that it should happen without working out how it should happen.

I share Brian Whittle's view. I am alarmed by the figures. It would be interesting to get a sense from the cabinet secretary of what her response is. As Brian said, if the petitioner provides us with some key, focused questions that she wants us to ask, we will be able to explore them with the cabinet secretary. Is that agreed?

Members indicated agreement.

The Convener: We agree to formally invite the Cabinet Secretary for Environment, Climate Change and Land Reform to give evidence and to give the petitioner an opportunity to suggest some questions that she wants answered. It may be that, in response to the petition, we will see some further submissions from those who have an interest.

**Myalgic Encephalomyelitis (Treatment)
(PE1690)**

The Convener: PE1690, by Emma Shorter, calls for a review of support for people with ME with a view to investing in biomedical research, creating a centre of excellence for ME, ensuring that healthcare professionals' training and education materials reflect the latest scientific evidence, providing specialist care for patients and discontinuing graded exercise therapy and cognitive behavioural therapy, which the petition refers to as harmful treatments.

We previously considered the petition in January, when we took evidence from the Cabinet Secretary for Health and Sport and the chief medical officer. The cabinet secretary subsequently provided a written submission that reiterated the Government's commitment to ensuring that people with ME can access the best possible care and support. She added that the Government would work with others to explore ways in which the level of research could be increased and would set up a short-life working group made up of relevant stakeholders and people with lived experience to

"explore the provision of services and different practices across the country."

The cabinet secretary also acknowledges the need to increase awareness and understanding among health professionals and states that the Government will continue to work with representative groups, including #MEAction Scotland and Action for ME, to that end.

10:15

The petitioner has argued that the continuing use of CBT and GET goes against the fundamental medical principle of doing no harm; indeed, along with others who have provided written submissions to the committee throughout our consideration of the petition, she argues strongly that CBT and GET are harmful.

In their submissions, the petitioner and Lesley Scott also query whether the research that led to the recommendation that CBT and GET be used as treatments for people with ME included any people with ME in the research cohort. In particular, the petitioner notes the position of the US Agency for Healthcare Research and Quality, which considered that there was

"a high risk of patients with other fatiguing illnesses"

being included in that cohort. That position is supported in a submission by Mr Stuart Brown, who asks why the national advisory committee for neurological conditions has not reported on the care of people with ME and suggests that there is an urgent need

"to commission research to establish the prevalence and burden of ME".

The petitioner also raises concerns about the issue of informed consent, referring to the need for choice without coercion and arguing that

"treatment is often forced on children with ME using child protection laws".

The submissions from Lesley Scott and an anonymous respondent appear to strongly support the petitioner's argument. Moreover, in his submission, Mr Brown sets out concerns about the suitability of GET as a treatment and considers that the petitioner's case for withdrawing that treatment is "indisputable".

Members might recall that, at general question time on 22 May, the Minister for Public Health, Sport and Wellbeing responded to a question from Maureen Watt on behalf of a constituent who was concerned about ME not being included in the Scottish Government's draft neurological plan. Mr FitzPatrick clarified that the national action plan for neurological conditions was not condition specific and that it covered all conditions, including ME. He added that the responses to the recent public consultation were currently being reviewed and that the Government would

"take on board the feedback that we have received and endeavour to ensure that the final plan is clear, throughout its intent and scope, that it is for all neurological conditions, including ME."—[*Official Report*, 22 May 2019; c 61.]

Furthermore, in response to a supplementary question from Miles Briggs on how levels of funding for research into ME might be increased, the minister said that the Government frequently

meets a range of stakeholders and that it would be willing to discuss the issue at its next meeting with stakeholders.

Do members have any comments or suggestions for action?

Brian Whittle: We also had what was quite an enlightening members' business debate on ME. In our previous consideration of the petition as well as that debate, it was said that GET and CBT seem to have been universally rejected as treatments; however, a couple of medics got in contact with me to tell me otherwise and that the blanket removal of those treatments was not the answer. That tells me that we are quite far away from getting a proper understanding of not just ME but other neurological conditions. It is not that long ago that ME was called "yuppie flu". I had always been under the impression that physical activity helped with every condition, but I have been proven to be incorrect on that.

We are a long way away from finding a successful treatment—and that applies to not just ME but other conditions on which we have received petitions. A recurring theme is that we need to change the way in which we train our medics. I would, as a reasonable first step, be interested in getting an update on the findings of the short-life working group.

Angus MacDonald: I agree with Brian Whittle that we need to find out where the short-life working group is at. However, it is also worth noting that, in her submission, the petitioner calls for the removal of CBT and GET as primary treatments, and she sets out four key issues under the headings "Do No Harm", "Lack of Evidence that CBT or GET Benefits People with ME", "Without Informed Consent, Treatment is Unethical" and "Evidence of Abnormalities in People with ME". Given that those concerns are paramount, I am keen to invite the cabinet secretary for a face-to-face meeting and ask her directly for an update on the short-life working group's work.

The Convener: We can liaise with the cabinet secretary on the timing of such a meeting, because we want to allow enough time for progress to be made, but I agree that we will want to hear from her on that matter.

I was struck by the themes in the submissions with regard to children with ME. Where is the training for those reacting to the child protection issues involved? The implication sometimes is that the issue is parental anxiety or the child simply not wanting to go to school, which suggests that people do not believe that ME is a health condition. We are not in a position to make a judgment on that, but it can have interesting—indeed, worrying—consequences. When a young

person has a condition that is not understood inside the system, it can end up with them as well as their parents having to come before a children's hearing. It would be interesting to hear from the cabinet secretary about the work that is being done on the training of general practitioners and about the Government's response to the written submissions.

Rachael Hamilton: With most health conditions, there are guidelines on how GPs should approach the condition and the pathways that they should take. In this instance, however, it seems as though we should have a more individualised or bespoke approach instead of some standard way of going about things. When I read Stuart Brown's submissions, I understood his sense of frustration at having to go back and forth so many times just to make his point.

There has been a little bit of progress; for example, NHS Education Scotland will develop a training module for GPs. However, what will that be based on? Will it be based on the National Institute for Health and Care Excellence guidelines? Will it be reviewed, and will it take on board the evidence from people who are living with ME?

Brian Whittle: In a previous session, we discussed the fact that, even if a GP were to refer someone to an ME specialist, there are not many of those specialists in communities. As we move closer to the idea of people, in conjunction with their GP, owning their own health, the idea of treatment being imposed on people will start to fade away. Inevitably, though, education will be paramount.

The Convener: It is worth noting that we are still waiting for responses from nine health boards, which we will want to pursue. In her most recent submission, the petitioner has specific questions for NHS Borders and NHS Lothian, so we could agree to write to those health boards to flag up concerns.

We can also invite the cabinet secretary to provide an update on the short-life working group, and at that meeting, she can give us an update on the progress on other issues, too. We can liaise with her and arrange to meet when she will have something to report, which, realistically, will probably be after the recess. Does the committee agree with that suggestion?

Members indicated agreement.

Preserving Scottish Battlefields (PE1696)

The Convener: The next petition is PE1696, which is on preserving Scottish battlefields and was lodged by Jack Gallacher on behalf of Bothwell Historical Society. Since our previous

consideration of the petition on 13 September 2018, a number of submissions have been received, including one from the Scottish Government, which has made it clear that it does not agree with the petitioner's view that there is no statutory protection for battlefields that are listed in the Historic Environment Scotland inventory. That is due to the statutory requirement for a planning authority to consult HES regarding planning permission for development on a battlefield. There is also a statutory requirement for planning authorities to notify the Scottish ministers should they not adhere to the decision or conditions set out by Historic Environment Scotland. Evidence was provided of that power having been exercised in relation to a proposed development at Culloden moor as recently as October last year.

Historic Environment Scotland stated:

"all planning authorities with historic battlefields in their area have specific planning policies that seek to protect"

and conserve those battlefields as part of their strategic decision making. It said:

"We are content that Local Authorities give adequate consideration to their own policies regarding the protection of battlefields and that they and other decision-makers give sufficient weight to our advice.

We therefore believe that the statutory protection currently afforded to inventory battlefields within the planning system provides an adequate level of protection and the relevant policies also provide sufficient weight to considering potential impacts upon inventory battlefields".

Do members have any comments or suggestions for action?

Rachael Hamilton: I am not sure whether HES carried out a policy review in direct response. That is very interesting, because HES says that it wants to "keep pace", develop a positive approach that is in line with "modern life" and use landscapes "proactively and positively". It will do more detailed work, and it is

"considering how inventory records and maps could provide clearer information on the key characteristics/surviving elements of battlefields."

That is important, because we know that communities get very upset when battlefields or historic sites are compromised. I think that HES expects a lot from all planning authorities when it comes to historic battlefield sites, and its submission gave me quite a lot of confidence.

The Convener: I agree with that.

Angus MacDonald: I agree with that, too. I have seen Historic Environment Scotland in action outwith my constituency, on the Western Isles. It has acted extremely responsibly over some planning applications that have been submitted, particularly in relation to the Callanish stones.

I would be minded to close the petition, given that robust systems are already in place.

The Convener: I note that the petitioner's submission says that he does not agree with that contention. HES's response was substantial, but we have to recognise that the petitioner thinks that it does not go far enough. Is there anything further that we can do at this stage? We have a shared commitment to preserving battlefields and other historic sites, and planning in that regard should be rigorous. We could say to the petitioner that the very fact that the issue has been highlighted has meant that HES has had to be very clear about what it does. If the petitioner thinks that that has not been sustained, he could come back to us on that.

David Torrance: The Scottish Government considers that there is enough legislation in place to protect battlefields, and there is the reassurance of HES. I agree with Angus MacDonald that we have to close the petition.

The Convener: We recognise the importance of the petition and what it seeks, but we have accepted the evidence that there are substantial protections. Therefore, we will close the petition under rule 15.7 of the standing orders on the basis that the Government considers that there are sufficient safeguards to protect historic battlefields from development and that there is evidence that they have been used in practice. However, we emphasise that, if the petitioner has further concerns, he can resubmit the petition after a year. Any evidence that he can provide that shows that there is a gap between what the Scottish Government says and the reality on the ground would obviously be an important part of that.

We thank the petitioner for highlighting the issue to the committee.

Rented and Supported Accommodation (Legislation on Pets) (PE1706)

10:30

The Convener: Our final continued petition today is PE1706, by Geraldine Mackenzie, on the introduction of a law to allow pets in rented and supported accommodation. At our previous consideration of the petition, which was on 25 October 2018, members agreed to seek the views of a number of organisations. We have received submissions from the Scottish Government, Shelter Scotland and the Scottish Federation of Housing Associations. We have also received a submission from the petitioner in response to those submissions.

The Scottish Government's brief response states that, although it recognises the benefits of pet ownership,

"Decisions around keeping pets are for individual landlords."

Shelter Scotland carried out a consultation on the subject and concluded:

"we feel that while legislation may be an option in future to consider to ensure that pets are reasonably accepted in private and social accommodation, we believe that other softer measures to encourage pet-friendly approaches may be more appropriate in the first instance."

The SFHA expressed a similar view, in that it expressed sympathy with the petitioner's aims but did not feel that legislation is required to allow tenants to keep pets. Most, if not all, SFHA members allow pet ownership, subject to responsible pet ownership policies. The SFHA is of the view that

"no-pet clauses' are virtually impossible to enforce ... as it would be highly unlikely a Sheriff or First Tier Tribunal would grant decree to evict based on pet ownership".

The petitioner feels that the Scottish Government's submission is brief and unsatisfactory, as it focuses only on individual landlords and does not cover the wider context. For example, pet owners seeking pet-friendly rental properties face less choice, which may reduce the quality of housing that is available to them. The petitioner is of the view that that lack of choice helps to create inequalities between the private and social rented sectors and that legislation is required to address that imbalance.

Do members have any comments or suggestions for action?

Rachael Hamilton: The petitioner should perhaps ask somebody to suggest an amendment at stage 3 of the Planning (Scotland) Bill, because it seems as though the accommodation that is provided is not suitable for people's pets. Even though organisations welcome pets, there might be no facility to allow people to come in with pets. It seems as though the petitioner will not get very far with the request for the Scottish Government to introduce a law, but there could be another way, with a campaign around it.

The Convener: I am not sure whether the issue could be dealt with in planning legislation.

Most social landlords allow pets and have some kind of process or policies to deal with situations in which someone does not look after their cat or dog and that causes problems for other people. However, there is a particular issue to do with people who are homeless and who have dogs. They cannot take temporary or sheltered accommodation because pets are not allowed, so they choose to be on the streets.

That is a small but marginalised group. The Scottish Government has not responded to that part of the issue at all. From Shelter Scotland and the SFHA, we hear that nobody would be evicted

for having a pet, and there is a general issue for everyone to do with antisocial behaviour involving people who have pets. I have dealt with cases in the past when folk disappeared for the weekend and left a dog in their house up the stair, and it did not stop barking for the whole weekend. There are issues of cruelty and other such questions, but there is also a specific issue for vulnerable people whose dog might be the only thing that they have in their lives and who cannot come off the streets because there is no suitable accommodation.

I agree with the petitioner that the Scottish Government's response on that question was quite dismissive. It is for the committee to decide whether we should keep the petition open in order to write to the Scottish Government to ask it about that. We could close the petition because, clearly, the main organisations do not think that the proposals in it are a solution, or we could write to the Scottish Government to highlight those particular concerns and then make a decision.

What are members' views?

Brian Whittle: The issue that I have is exactly the one that you have raised about that small group of people who choose to be homeless rather than be separated from their pet. It is one thing to say that it would be difficult to evict somebody for having a pet, but how do they get into the accommodation in the first place? That is the dilemma, as people will not be accepted into accommodation with a pet. To me, that did not ring true, and there is an issue there. I would like to get a further response from the Government on that specific point. I do not know what else we can do on the issue, but I would like to do something about that point.

Angus MacDonald: I came into the meeting this morning minded to close the petition, but your point—

The Convener: So this will be my fault. *[Laughter.]*

Angus MacDonald: —about homeless people not being able to take their pets into accommodation with them is valid. For that reason alone, we should pursue the matter a bit further and get more answers from the Government.

I note that the petitioner references a yet to be published paper that argues that pet ownership comes in the scope of article 8 of the European convention on human rights, which, in part, protects a person's home, family and private life against intrusion by the state. However, having worked on the Land Reform (Scotland) Bill extensively in the run-up to the previous election, I know that there could also be a breach of the ECHR rights of landlords, particularly private landlords, who may not wish to have pets in their

properties. We are in a catch-22 situation, but the matter is well worth pursuing a wee bit.

The Convener: The suggestion by Shelter and the SFHA is for a softer approach and a recognition of the importance of pets in some people's lives, including older people or the bereaved. I have heard people talk about the benefit of their having another wee heartbeat in the house, and there is an idea that people who might be vulnerable should be able to have a pet. There would have to be responsible ownership, but could having a pet in a property be a right? If I were renting out a property, should I be able to exclude pets? It would be my private property, so should what I want be constrained? I suppose that that issue is worth exploring.

If there is a direct consequence to a small group of people of not being able to take their pets into a shelter, we think that that is an area on which the Government should respond with more than just a couple of sentences. Do we agree to write to the Government about that issue? I think that we would also want to thank the petitioner for raising a very interesting matter.

Members indicated agreement.

The Convener: It is one of those cases that we suspect will not be sorted by legislation but where even having a better understanding of the issues will help.

Again, I thank the petitioner for raising the issue.

10:37

Meeting continued in private until 10:43.

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