



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 6 June 2019

Session 5



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Pàrlamaid na h-Alba

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PUBLIC PETITIONS COMMITTEE

11th 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 PARTICIPATED:

Claire Lithgow (Scottish Canals)

Rona Mackay (Strathkelvin and Bearsden) (SNP) (Committee Substitute)

Stuart McMillan (Greenock and Inverclyde) (SNP)

Richard Millar (Scottish Canals)

Edward Mountain (Highlands and Islands) (Con)

Josie Saunders (Scottish Canals)

Elaine Smith (Central Scotland) (Lab)

Catherine Topley (Scottish Canals)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Public Petitions Committee

Thursday 6 June 2019

[The Convener opened the meeting at 09:31]

Decision on Taking Business in Private

The Convener (Johann Lamont): I welcome everyone to the 11th meeting in 2019 of the Public Petitions Committee. We have received apologies from David Torrance. I welcome Rona Mackay, who is attending as a committee substitute.

We have three items on the agenda. Agenda item 1 is a decision on whether to take agenda item 3 in private. Do members agree to take item 3—consideration of PE1319, which is on improving youth football in Scotland—in private?

Members indicated agreement.

Continued Petitions

Independent Water Ombudsman (PE1693)

09:32

The Convener: Agenda item 2 is the consideration of continued petitions, the first of which is PE1693, on the establishment of an independent water ombudsman, which was lodged by Graeme Harvey on behalf of the Lowland Canals Association. Members might wish to note that, since the petition was lodged, the lead petitioner, Graeme Harvey, has stepped down from his role as chair of the Lowland Canals Association. We recently received a written submission from Mr Harvey, which the clerks have provided us with to form part of our consideration.

At our most recent consideration of the petition, on 20 December 2018, we discussed the role of the Scottish Public Services Ombudsman, the implications of creating a new ombudsman and the current repair backlog as set out by Scottish Canals. In order to explore those and other issues further, members agreed to invite Scottish Canals to give evidence. I welcome to the meeting representatives from Scottish Canals: Catherine Topley, the chief executive; Richard Millar, the director of infrastructure; Claire Lithgow, the director of finance; and Josie Saunders, the head of corporate affairs.

I invite you to provide a brief opening statement of no more than five minutes in total, after which we will move to questions from the committee.

Catherine Topley (Scottish Canals): Since I took on the role at Scottish Canals, last year, our aspiration has been—this is one of the tasks that the Scottish Government provided me with—to work closely with the boating community as well as with many of the other communities that we serve. We are here today to talk about the boating community, so I will keep my evidence within that sphere.

It is clear that the boating community has felt that it has not had a good, close working relationship with Scottish Canals for some time. As a consequence, we have worked very hard, over the past year, to improve that relationship with regard to not only how we look at the canals but how we live on and utilise them.

The canals have a £70 million repairs backlog, as we have stated previously. If we had the finances to implement those repairs, the canals' state of repair would be as good as new. We must be realistic and recognise that a proportion of that £70 million relates to immediate and ready repairs. Richard Millar has always maintained good working relationships, as have Josie Saunders,

Katie Hughes and Claire Lithgow, although those can vary at times, depending on what is happening within the business. It is fair to recognise the management team's willingness to continue those working relationships in the future.

On the asset as a working heritage asset, we have to recognise that, given its age, on-going repairs and maintenance will be required. Working with the boaters, explaining the asset management strategy, incorporating their views and the issues associated with the canals, and the transparency on the state of the canals have certainly helped the relationship with the boaters. I cannot guarantee that the canals will always be open and that we will always be able to fix and maintain them, but we work to ensure that they are safe and comply with what is required of them. By speaking and working with the boaters, we can ensure that that approach extends throughout Scotland.

Today, we are looking specifically at a petition from the LCA on a water ombudsman, which focuses particularly on the central belt of Scotland. There are 240 miles of canals across Scotland, and we must keep in mind the Crinan canal and the Caledonian canal, which also bring a significant amount of tourism, transit and activity across the breadth of Scotland's geography.

We are happy to answer any questions that the committee has for us and to be objective about the issues that are presented to us and honest about the journey that has led us to this position.

The Convener: Thank you. You will be aware that the focus of the petition is on what can be done if people are not satisfied with what you are doing. You have outlined a problem and a challenge, but the question is what recourse people have if they are not satisfied with what you are doing.

The committee understands that the Scottish Public Services Ombudsman has no powers to assess the overall quality of the service that Scottish Canals provides and that it is unable to investigate matters relating to rent and service charges, as they are an excluded category. Who deals with those issues, including any disputes with Scottish Canals, if the Scottish Public Services Ombudsman does not?

Catherine Topley: As I said in our submission, we follow an internal complaints process, and complaints are processed and managed through it. The particular issue of pricing is clearly an emotive one—I completely understand that. The context is that, at the time that the discussions were under way, there was such inconsistency in the pricing along the canals that two berths sitting right next to each other were on entirely different pricing structures. From that perspective, it was

appropriate, fair and transparent that we implemented something for wider usage across Scotland. As the committee will know, we did that in an open and transparent way.

Your main question was about the process, which is a two-stage process. We use our internal process to allow individuals to raise a complaint that will be formally investigated, and the complaint is then escalated to the SPSO. I understand that, as the SPSO has underlined, there is not specifically a space in which individuals can complain about pricing, but there is an open and fair dialogue about how we have got to that pricing. We should bear in mind the fact that the boaters and the community will have been involved in the consultation on that. With that in mind, I would question whether the numbers associated with the complaint reflected the overall process and the individuals involved in it.

The Convener: But there is no recourse. If you decide that that is the cost, that is the cost. There is a monopoly. You may say that the process is transparent, reasonable and necessary, but there is nowhere else for the complainant to go.

Catherine Topley: As things currently stand, there is nothing to prevent Scottish Canals from significantly hiking the pricing other than the fact that we have already agreed a pricing strategy with the boaters, which will not change in the forthcoming period, and the fact that we are a non-departmental public body and would, therefore, not look to act in such a commercial way, which would put individuals in hardship. We want the boaters on the water, so we would not want the prices to be such that they would exclude individuals from being on the water.

The Convener: There may be good intentions, but, at the heart of it, there is nothing that compels Scottish Canals. It could hike prices further if it wished to.

Catherine Topley: At the end of the day, part of the remit of Scottish Canals is to act as a commercial operation, so the commercial aspect of boating and the pricing associated with it are, of course, relevant. There is an opportunity to increase prices in line with the market in the future, but that is all that it would ever be.

The Convener: So, the commercial operation, which is necessary because there is a shortfall in moneys to sustain the canals, means that you may make decisions that people who use the canals would be unhappy with.

Catherine Topley: Yes, that may be the case.

Angus MacDonald (Falkirk East) (SNP): Some of the submissions that we have received raise significant concerns that on-going canal maintenance is suffering as a result of Scottish

Canals's focus on asset investments. Has the right balance been struck between asset investment and canal maintenance? How do you respond to concerns that Scottish Canals is diverging from its statutory obligation to maintain the canals?

Catherine Topley: On your second point, as you know from the submissions that we have presented, under the framework agreement, Scottish Canals is asked to act in a manner that allows us to regenerate the canals and make the best use of them, which includes commercial operations. Canals cannot stand alone or in isolation, with just boats on them, and I think that the boaters would absolutely agree with that. The reality is that canals are so vibrant because of the other activity that runs alongside the boating, which makes for a much more pleasurable and enjoyable experience not just for the boaters but for walkers, cyclists, dog walkers and so on. From that perspective, we need to look at the expanse of issues—we cannot focus solely on one area.

As you know, 15 or 20 years ago, canals were places where we kept our shopping trolleys and couches, and they were in a dire state. The state that they had got into was an embarrassment to Scotland. To maintain a positive and flourishing environment, we need activities along the canals. Those activities have to draw in the community and the community has to want to be part of them, which is why the commercial and regeneration arms go hand in hand for us. We do not want to lose that vibrancy.

I will ask Richard Miller to comment on the first part of your question, regarding the balance of commercial activities and activities relating to assets, in a moment. Those activities go hand in hand because we can never be fully financially sustainable with £10 million. I absolutely agree that it is a lot of money for anybody, but, in investment terms, £10 million can be recycled through only so many activities at any given time. Consequently, we must have a balance between the commercial activity—revenue-generating activity—and sustaining and delivering on our core business.

I underline that the Government grant in aid that is given, which is £8.5 million this year, is for our statutory responsibility of looking after the canals and cannot be used for anything other than that. To give some context, the accounts that will be published soon show that the staffing cost alone for Scottish Canals is £9.5 million. Any money that we generate has to go towards not only maintaining the canals but running them, and that money goes towards ensuring that that wider work is done. Therefore, we already contribute to the running of canals through our commercial model.

I ask Richard Millar to comment a little more on that, and then I will be happy to take further questions.

Richard Millar (Scottish Canals): We have been working on that issue for some time through the asset management strategy. As a public organisation that looks after 140 miles of historic waterways that are between 200 and 250 years old and that have inherent risk because they are engineered channels that hold back water, we are always required to find a balance between investing in the core infrastructure—the locks, lock gates, reservoirs and aqueducts—and investing in maintenance and the operation that we deliver on the canals. The asset management strategy has been totally aligned with international best practice and is very much a forward-looking plan. People have seen that it represents best practice.

09:45

We have considered the questions that you raise. There have been some really challenging questions for Scottish Canals around the amount of money that we have, how we spend it and how, if we do not see the increase in funding that is required, we make decisions that are sensible and rational and ensure that we keep the best of the canals operational. We are absolutely determined to keep all of these canals operational and in navigation, because we know the massive value that the towpath and the water space brings to Scotland. There is no doubt that that is at the very core of what we are doing. I know that the asset management strategy has been contentious among some of the boaters, but it has helped us to understand what our liabilities are, what level of investment we require and how we should invest.

We have worked closely with the Scottish Government, and we have been lucky enough to experience a significant increase in our capital investment. However, there is still a requirement for revenue. That is important when you are running 250-year-old structures, because there is a lot of patching and repair work to do, and that can be funded only out of revenue. We have had to develop—in a balanced way—the commercial side of the business and new revenue streams so that we can do those repairs. Our revenue funding has remained static throughout the recession. In 2009 or so, it was up at £11.5 million, moving to £12.5 million. However, since 2011, it has been static at around £8 million, although there has been a slight uplift this year. Revenue is important to us for the task that we need to do, and we are striving to deliver that balance in the business.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Your staffing costs are £9.5 million. Given the challenges that you face, have you ever considered making efficiency savings in your

administration? I am thinking of the salaries of the directors and other highly paid members of staff. A cost of £9.5 million for staffing is quite high.

Catherine Topley: I will address that point and then ask Claire Lithgow, our finance director, to comment further.

In short, yes, we have done that. We continually consider efficiencies. The staff numbers of the organisation have not varied significantly in the past eight years. I am confident that the organisation has not lost control of its staffing costs. What we have seen is a combination of increases involving issues such as the Scottish living wage and the uplift in terms of pension costs and corporate costs. Of course, with static grant in aid of £8 million, we have incurred those costs internally, which eats away at our profit.

On the directors' salaries, the previous chief executive was on a different salary and, through the movement of his role, there was an opportunity to review that. In line with Scottish Government policy, there was an aspiration to reduce that salary by 10 per cent, which has currently been achieved.

Claire Lithgow (Scottish Canals): We should also bear in mind the cost of public sector pensions. Scottish Canals has moved from its defined benefit pension scheme to a defined contribution pension scheme, which will have an impact as the members on our old DB scheme, which is now closed, move on from the organisation in one way or another. The DC pension scheme gives us more certainty around our future pension costs and liabilities. We are part of the Scottish Government's public pay policy, so we have taken year-on-year increases in line with pay policy. We have no incremental pay increases, so we have capped any movement in the overall wage bill from an annual increase perspective, in line with Scottish Government pay policy. Those moves have been made in an effort to decrease the overall wage bill.

Over the past 18 months or so, we have done a lot of work around productivity, to ensure that we are getting the biggest value from our workforce and that we are maximising their productivity. As Catherine Topley said, we have not increased our overall headcount.

Rona Mackay: To clarify, did you say that the directors' salaries have been cut by 10 per cent?

Catherine Topley: I said that the chief executive's salary has been cut by 10 per cent.

Rona Mackay: Has there been a change in the tier below that?

Claire Lithgow: There has been no change in the people in post at that level.

Richard Millar: The number of directors has recently reduced by one.

Rona Mackay: Does that indicate that, previously, things were too heavy and the number of directors was too high?

Claire Lithgow: We have aligned our operations to build in greater productivity and efficiency. We have streamlined what we do, so we felt that it would be more appropriate to the organisation's directorship structure for there to be one fewer person.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I have a question for Richard Millar on the work that is being done through the asset management strategy. Will you illustrate how returns on investments contribute to the operation and maintenance of the core canal network?

Richard Millar: We can prove that we are tirelessly developing. As you will have seen from the papers, when we split from British Waterways to become Scottish Canals, we received a £10 million dowry as a result of moneys that had flowed south of the border when we were one United Kingdom organisation. We were able to prove that moneys had flowed in that direction and that, when we split away to become Scottish Canals, we required that money back. We were successful in securing £10 million of investment, which we have used as a commercial investment pot.

Some of the money has been invested in capital growth and opportunities to develop sites that are close to the canals in order to add value to communities. We should remember that a million people live within 3km of Scotland's canals, and that 20 per cent of Scotland's most challenged communities are on the banks of our canals. We have worked with the board to focus the investment on providing a double whammy, so that we deliver improvements beside the canals and deliver for some of the challenged communities. Our capital returns will be reinvested to help us to grow. We have put half the money into developing revenue opportunities that have increased our income. The statutory accounts shows that the income that is coming into Scottish Canals has increased tremendously over the past few years.

As Claire Lithgow said, the business has challenges in relation to corporate overheads and the growth in pension, and following Government policy—for example, by paying the living wage—has had implications. Changes take time, and £5 million is not a lot of money to develop income streams. However, there is no doubt that things are moving in the right direction, and the business is starting to see those returns. We need to work

on and develop the income streams over time, so that they tip into adding value to the canals in the future.

Rachael Hamilton: Is sufficient resource being directed to canal maintenance as opposed to asset development?

Richard Millar: For me, canal maintenance and asset development are the same. The asset management plan looks at the foundational structures. We have 4,100 major structures and 140 miles of canal banks, embankments and towpaths. Through the asset management strategy, we look at what is required to maintain those structures in good condition.

Recently, we have done a lot of work on improving the embankments around Linlithgow, because the canal holds back 31.5 miles of water. We have done works at the Ness weir, which holds back almost 2m of depth of Loch Ness from Inverness. We have been identifying the public safety pieces of work that are needed to ensure that the canals are here for the next 250 years. We have also been addressing defects and ensuring that we tackle and manage problems on the canals when we see them, so that the assets do not slip into decline.

It is about finding a balance. Have we got enough money to maintain the canals? The answer is that we are challenged. Our grant-in-aid funding has increased, and there have been improvements from the income that is being generated from commercial developments, but the asset management strategy clearly shows that we are somewhere between £2.5 million and £6 million short of getting to what we would call a steady state, which is a situation in which the canals are sustainable, maintained and fully operational. At the moment, we are operating with risk, which means that we are challenged when major failures happen. Every month, every metre of canal is monitored and inspected but, as we saw last year at Twechar and Bonnybridge, sometimes work is needed of a scale that we cannot afford to fund, given the moneys that we have at the moment.

The Convener: The submission that we have received from the petitioner mentions the Scottish Canals asset management strategy, and it says that,

“On Page 8 under Canal Strategies, the comment”

is made

“that ‘budget prioritisation may not necessarily include navigation although it is an important consideration’”.

Does that mean that using the canals is not a priority for Scottish Canals?

Catherine Topley: That line does not sit well on its own, but it needs to be considered in the context of the entire report. What we are saying is that, as Richard Millar has emphasised, we have to take safety before navigation because of the funding scenario. Our priority is absolutely navigation and maintaining the canals, but in the context of the asset management strategy, which sets out the challenge, what we are saying is that we have to look at safety and risk before navigation.

Richard Millar: When people walk along them, canals look like sleepy backwaters that would not worry anyone, but there are inherent risks. There are reservoirs and embankments, and there are structures that, if they failed would—as we have seen in England and Wales, where there have been significant failures in recent years—would cause local flooding and cost the public purse and insurance companies a lot of money to fix. We must ensure that we look after and maintain the canals and keep the villages, towns and people in communities that are close to them safe. That has to be the number 1 priority. We then have to consider staff and visitor safety, because we have 22 million visits to the canals every year. A lot of people out there are using them, as we have very successful towpaths, and we have to ensure that they are safe.

We are absolutely determined to keep the vibrancy on the water as well. That is critical, but it comes at a cost, not least for locks and lock gates, as we saw recently, when we fixed lock 6 in Falkirk. Significant investment of £350,000 was required to fix a lock chamber there. When we extend that and look across 90 locks, many of which are much bigger, it is a challenge.

What we have done in the asset management strategy is to create a blueprint. Our hearts and souls say that we want to keep everything open and keep all the plates spinning. However, we are in times when money is difficult. If we have to, we will deploy the asset management strategy, which is a blueprint for how we will act that is balanced against the public value from the canals.

The Convener: I understand the safety issue, but the danger is that the logic of your position will be that we should stop using the canals. They would become something that people can go and see but not expect to use. That is what I read from your position. Navigation appears to be a bonus, and rather than being a working heritage asset, the canals will be something historic that people can go and look at. Do you understand why people have those anxieties?

Richard Millar: I absolutely understand the anxieties. We constantly have conversations with the boaters on the subject in order to understand their views. However, we come back to the fact

that, with limited money, we can only do so much. We cannot do everything that we need to do. That is clear from the model in the asset management strategy. We are challenged.

We are in a much better position today than we were in a year ago, when the petition was lodged, and that is thanks to significant investment from the Scottish Government. However, the canals are 250-year-old structures that do not come with any plans, any design code or any consistent construction, and they have hidden challenges. We are determined to keep them safe, to keep our visitors safe and to keep navigation on board. However, as I said, we cannot do everything. If we do not have the resources, we need to have a blueprint to allow us to prioritise.

The Convener: It becomes a self-fulfilling prophecy, does it not? You do not have enough money and you have to think about safety, so you cannot prioritise navigation. You end up in a position where there is not enough money to do the thing that you would really like to do. Do you not see that it feels like you are not challenging the level of budget that you have? You are using the budget that you have to develop the area round about, perhaps, because you are not prioritising navigation.

10:00

Richard Millar: We are challenging the—

The Convener: You are not prioritising navigation.

Richard Millar: Navigation is a statutory part of what we deliver; it is at the heart of what Scottish Canals is all about. However, we have limited moneys to manage and maintain the infrastructure, as with any public sector organisation, so we must make hard decisions. Over the past year, we have had conversations with the Scottish Government on the back of the model that we have created and the engineering science that is the basis of the asset management strategy, which have given us a clear agenda.

When problems happen, we can deploy a small contingency of our own. However, if we identify a large problem, we have no choice but to have a conversation with the Government. We had such conversations in relation to Ardishaig pier, Twechar and Bonnybridge, and in relation to Culloch, which was a major failure on the Caledonian canal in 2015. The agreement between us and the Government is that, if significant problems arise that go beyond what we can afford, we can have such conversations and use the methodology that is in the asset management strategy to ask how the Government can help us with the challenge.

Working with volunteers has also been critical. We are changing how we operate the canals, and working with volunteers to tackle inherent problems with the canal infrastructure is definitely an approach for the future.

The Convener: I will not labour the point but, if you say that your budget priority is not navigation, any conversation that you have with the Scottish Government will not be about prioritising funding for that.

Brian Whittle (South Scotland) (Con): Investment is a key issue. A number of submissions have suggested that a lack of Scottish Government investment has contributed to the lack of maintenance. The submissions referred to a £70 million backlog, which you have mentioned. Have other factors led to that backlog?

Catherine Topley: We must be clear that, although our funding model has not changed, we are similar to any other public body, so I would be cautious about referring to a lack of investment. The Scottish Government has reviewed the funding model as best it can, and we have fallen under that process. To address the point that the convener made, we have genuinely presented business cases year on year for additional funding but, as is the case for the public sector generally, there is not enough money to go round. We sit in that bracket.

You are right that the backlog did not occur overnight; it did not suddenly develop because the Scottish Government did not have enough money to give us in the past three years. We must remember that the canals have been around for 250 years. Before Scottish Canals was established separately from British Waterways in 2012, there was a UK canal network. It is fair to say that the assessment of the state of the canals at that time might not have reflected the investment that was required. The backlog has not arisen over the past five years or as a result of a lack of investment in that period.

Brian Whittle: Our canal system is an asset to Scotland. You have talked about developing that asset and its potential, which is not just for navigation. Are you moving towards self-sufficiency? Is the Scottish Government pushing you in that direction of travel?

Catherine Topley: We aspire to head in that direction, but I reiterate that £10 million and a commercial investment cycle go only so far. All things being equal, if our costs stood still, the amount that we could generate from revenue and commercial capital would be more significant, so we would be much more self-sustaining, but those things do not stand still, so year on year we must balance what we can bring into the organisation versus what goes out.

We certainly contribute significantly to the cost of running the canals, not least their infrastructure, from the income that has been generated from the commercial and revenue activities. I underline again that it is the commercial capital, not the grant in aid, that has generated that. I also underline that that commercial capital is a long-term thing. The money that we generate from the Falkirk wheel makes a significant contribution to the running of the canals.

Brian Whittle: Do you have a blueprint or timescale for when the backlog can be cleared and you will be self-sufficient in that regard?

Catherine Topley: We have several models for when the backlog could be cleared, which depend on several investments during the period. As you can imagine, the situation is pretty fluid, depending on what money is available and how it comes in over the period.

I am realistic about what is achievable in the next 10 to 15 years around the commercial modelling and the maturity of that. We work on various models, none of which will get us to a position in which we will be self-sustaining in the next 10 to 15 years, but we look to continue to grow the income, because growing the income will allow us to invest further in the canals. I am talking about using that revenue for asset management—dealing with the repair backlog—rather than recycling it and putting it back into commercial capital. We must make it clear that we are using the money to do that.

Rona Mackay: I want to return to the subject of mooring prices. One of the towns in my constituency is Kirkintilloch, which is a canal town. A year or two ago—I cannot remember exactly when—constituents came to me because they were horrified about the exorbitant price rises, as a result of which some people were made homeless, and they felt that they had no recourse to anyone. I appreciate that that situation predated your appointment.

What has changed? What reassurance can you give that that will not happen again?

Catherine Topley: I will give you some context, after which Josie Saunders will be able to say more about that period, as she supported the consultation and its development, along with Katie Hughes.

We have agreed the price in consultation, and we have put in a timeframe. Is it 20 years?

Josie Saunders (Scottish Canals): It is an ongoing process.

Catherine Topley: I am sorry—I was referring to the period in which the increases would develop.

Richard Millar: When we consulted as part of the pricing consultation, we agreed on an uplift of no more than £100 every year to get to the market rate that was established. That could take up to 20 years to get to.

Catherine Topley: I give the reassurance that, within that process, we have already identified a way to limit the increase—this addresses Ms Lamont's point—in the costs. I think that the maximum that we will look to implement is about £8.80 a month, but Josie Saunders will be able to say more.

Josie Saunders: The process of the pricing consultation was challenging. It is probably worth saying that no other canal authority has managed to find a methodology for setting fair and transparent prices. It is an issue that every canal authority is grappling with and is looking to Scotland to learn from.

Dealing with price increases—especially increases that relate to residential accommodation—will always be a challenge. We did not enter into the process lightly. We embarked upon it publicly and knew that it had to be independent of Scottish Canals. We knew that we would need to bring in independent consultants who would be independent of our boating customers and who would be able to understand what was out there in the marketplace and what the market demands were. We knew that they would have to be able to look at the various facilities and opportunities that were available to our boating customers at each of the locations along the mooring sites that we operate and to come up with a sensible methodology for setting the prices.

That is what Gerald Eve and Bilfinger GVA were brought in to do. As part of that process, they met boaters and held public meetings at each of the canals. The feedback from those sessions was that boating customers told them—and they subsequently told us—that they needed to extend the brief so that they could go and visit each of the mooring sites. That is exactly what they did, and they did that without Scottish Canals. They went along and met boaters and saw what made each of the mooring sites attractive and what facilities were available. They took away that information and the feedback from the boating customers, carried out desk-based research and came up with the methodology. I do not know whether that methodology is perfect, but it is probably the only one out there.

That process led to a set of prices that formed the recommendations that we then took out to consultation. Right at the beginning, we said that, because the process was independent and was carried out not by us but by a third party, with all parties' input, the recommended prices and the

methodology behind them would not be challenged and we would all have to accept them. However, Scottish Canals committed to implementing the charges fairly where we could. Therefore, the consultation was not on the recommendations and the methodology behind them; it was about how they would be implemented. As Catherine Topley said, the feedback from customers in the consultation was that they were concerned that some boaters might face financial hardship. Hence, we took the decision to cap the price increases in any financial year at £100.

Another thing that came out of the consultation was that most of our boating customers want on average a year's agreement with Scottish Canals. However, we made it clear that a year's agreement could be extended to three or five years if, for example, someone had a child at a local school, if they had parents in an area or if, for whatever personal reasons, they needed security of tenure. That still stands. Therefore, I am sad to hear that some of your constituents have been forced off the water as a result of the prices, and I would be keen to pick that up with you.

Rona Mackay: I should say that many of them were not happy with the independent review, either.

Putting that aside, I return to the convener's opening remarks and question. Boaters have no recourse. You say that you are engaging with them openly and transparently, but how does that happen? Is it through public meetings?

Josie Saunders: Yes. We have public meetings for each of the canals, either every six months or every year, depending on the location. I attend those meetings along with Catherine Topley, Richard Millar and a number of other senior managers from Scottish Canals. We have a volunteer group that meets regularly; some of the members of that group are with us today. We are in the process of establishing with some of our boating customers and representatives of boating groups a kind of advisory group to help to identify how we can spend some of the resources that we have available and where they should be prioritised. For example, it will consider whether we should prioritise weed management, encouraging volunteering or other areas.

We also have individual meetings. Catherine Topley and I and a number of the other people round the table meet regularly with individual boaters and groups. Being accessible in that way is an important part of what we do.

Rona Mackay: One of our submissions alleges that many boaters are frightened to speak out at those meetings because they do not want to be penalised or not have their licence or annual

mooring renewed. One boater was allegedly threatened with possible legal action for expressing an opinion. Is that satisfactory?

Catherine Topley: I would fundamentally disagree with any such behaviour happening in any of the meetings, and I have never experienced it in my tenure. I do not know when that happened, but I know that, when I joined Scottish Canals, I sat with the boating community and we agreed the matrix of the meetings. As a matter of fact, Ronnie Rusack chairs the meetings to ensure that there is a balanced approach and that the meetings are open and a safe space. I do not know when that experience happened but, hand on heart, I can say that it certainly has not occurred during my tenure.

Rona Mackay: Has there been a culture change in the dealings with boaters? Should boaters, whether they live on the canal or pay for the facility as a leisure facility, have more rights?

Catherine Topley: There has certainly been a shift in our relationship with the boating community. Again, I underline the point that there are good relationships between individuals at operative and management level but, corporately, there has been an absolute shift, and we have all benefited from that. The shift has allowed rights that already exist to be expressed and utilised.

As a result, we have seen significant changes with people's expression of what they would like to see or where they have challenged particular issues. We have progressed on that using the boating meetings to implement changes that have been requested. Those meetings are minuted and there is an action log that identifies what people have asked for and what we have been able to deliver.

There are rights that were not used to the best effect in the earlier relationship.

10:15

The Convener: I am very conscious of the time. You mentioned an advisory group. Would it be possible for you to send us details of its terms of reference, whether it has been established, when it has met, who the members are and how often it will meet? You also talked about a £70 million repair backlog. It would be interesting to know how much of that is regarded as critical and how much of it would be helpful but not absolutely disastrous if it was not done.

This is my final question. Do you accept that there are fewer protections or rights to complain for users of canals in Scotland than there are in England?

Catherine Topley: I hold my hands up and say that I am not an expert, but based on my

conversations with the chief executive of the Canal & River Trust, I would say probably not. When I discussed the matter with him and took counsel from him, his view was that the ombudsman in England and Wales reviews only the processes that have been used and does not really provide what the boaters seek to achieve in Scotland. Based on the advice that I have been given, we would be looking at an entirely different set-up but the ombudsman is not my area of expertise. We would have to look at its remit and how far it can go under that remit.

Rachael Hamilton: Ms Topley, I believe that your secondment finishes in December. It appears that communication between Scottish Canals and the user groups has improved; that will clearly be your legacy. What will happen when you are not there?

Catherine Topley: The boaters have been concerned about that. As part of my engagement with the Government, we have been looking at ensuring that the individual who comes into the post is clear on the priorities.

One of the first things that the Scottish Government asked me to do was to look at how the relationships had broken down and how we could develop them going forward. That is a fundamental part of the recruitment process for the new chief executive.

We have a new board and we are clearly experiencing the benefit of that knowledge coming through. There are therefore two parts to the answer. First, improved communications should be inherent in the new chief executive recruitment process, and secondly, the cultural experience of the way in which we have engaged has changed; as a result, it has been embedded as a legacy and will continue at the senior level with the board and the executive team.

The Convener: The final issue that was flagged up was the question of the chair of Scottish Canals. I understand that someone is serving a second three-year term and it has been confirmed that they have been awarded a third term. The petitioner regards that as unheard of. You might want to come back to us on governance and satisfying the petitioner and others of transparency.

Catherine Topley: I am not aware of the discussions that are on-going between the chair and the Scottish Government. As you can imagine, that is a matter for ministers. I am confident that ministers will not act outwith the normal governance process, so I would be happy to explore what that consists of and report back to the committee on that.

The Convener: I thank you and the panel for your time today. We have taken slightly longer

than we expected to, but, as with many of these things, we discover an interest in an area where people have a lot of focus and about which people care passionately but we do not really understand the inner workings of the issue.

We have asked you for some further information, which I hope you will be able to provide. Equally, if there are things that you feel we have missed during our consideration, we would be more than happy to hear from you.

We must decide what to do next. We will want to take the opportunity to reflect on what we have heard and to ask others to respond to what we have heard

One area on which we need to satisfy ourselves is where to go with complaints on the ombudsman. Is it the same as elsewhere in the United Kingdom and, if not, is that something that we could look at? We should not forget that that is the focus of the petition.

Brian Whittle: The evidence that we have heard from both sides points to a cultural change and an improvement in the relationship between the parties. I am still concerned about the fact that there is no recourse and the relationship is totally reliant on the attitude and culture of Scottish Canals and the board. It will always revolve around that and we need to consider that.

The Convener: Rona Mackay made the point that there is a direct impact on those who are not just using the water for leisure but living on it. We will also want to reflect on that.

With the committee's agreement, we will reflect on the evidence and come back to a later meeting with some conclusions. There will be an opportunity for people, having heard what we have discussed today, to make further comments; that would be useful.

I thank the witnesses for their attendance.

10:20

Meeting suspended.

10:23

On resuming—

Thyroid and Adrenal Testing and Treatment (PE1463)

The Convener: I welcome Elaine Smith MSP to consideration of the next petition, which is PE1463, on effective thyroid and adrenal testing, diagnosis and treatment. The petition was lodged in December 2012, and was first considered by the Public Petitions Committee in session 4. Consideration of the petition has continued in

session 5. The committee published a report on the petition in March 2018, and a debate on it was held in the chamber in December.

During our most recent consideration of the petition, in February 2019, the committee discussed the chamber debate, noted that several members had acknowledged the work that the committee had carried out on the issues that the petition raised, and suggested that the work could be continued by the Health and Sport Committee. The Public Petitions Committee therefore wrote to the Health and Sport Committee to draw its attention to the calls that were made during that debate for a short and focused inquiry. The response from that committee, which is included in our meeting papers, states that it

“noted the series of assurances provided by the Minister to the Chamber during the debate and agreed to write to the Scottish Government seeking an update on progress.”

A response was received from the Minister for Public Health, Sport and Wellbeing and was sent on to this committee for information. That is also included in our meeting papers.

The minister’s letter lists a number of recent developments that are relevant to thyroid testing and treatment, including publication of guidance for thyroid testing by the Scottish clinical biochemistry network in March this year; the minister’s engagement with all health boards in Scotland in order to clarify the Scottish Government’s position on T3 prescribing; and the minister’s commitment to engage directly with people who cannot access the treatment that they should get.

We have recently received additional written submissions, which have been provided for members in hard copy today, including a submission from a petitioner, who expressed her disappointment that the new guidelines

“merely parrot the same tired old ideas”

and

“take no account of the wealth of new evidence”.

There are other written submissions from people who continue to have negative experiences in respect of T3 prescribing.

Do members have any comments or suggestions for action? It might be useful if Elaine Smith were to say something at this point.

Elaine Smith (Central Scotland) (Lab): Thank you very much, convener.

The petition was lodged a long time ago, and there has been no real resolution in respect of effective diagnosis and treatment of thyroid sufferers, despite the best efforts of the committee over the years. The sufferers under the legislation are mainly women and disabled people, which has

not come out enough. We are talking about a lifelong incurable and debilitating chronic condition, and it comes under the Disability Discrimination Act 1995. In some ways, the situation is worse now because, previously, prescribing T3 under the care of an endocrinologist was not a problem, and now it is. As we know, cost is the cause of the problem.

One of the petitioners, Lorraine Cleaver, and hundreds of other women still have to buy desiccated thyroid hormone privately from abroad. Their choice is to pay for their life-saving medicine or, basically, to suffer and possibly die. Women who are living in poverty, for example, do not have the choice to buy from abroad, such as those women have.

We should remind ourselves that desiccated thyroid hormone is a medicine that was used here as the standard, and that it was, in fact, the only treatment until synthetic thyroxine was invented and made a big profit for drug companies. There are still women around who remember how well they were on DTH that had been prescribed by the national health service, compared with how unwell they have been since they were put on to synthetic T4. I have spoken to such women.

We might recall that it is officially admitted that 10 per cent of patients on T4 do not do well and that many are unable to convert it. In America, the figure is 15 per cent. We all think that the figure is higher than 10 per cent, and no one is telling us or the committee what is happening to that 10 per cent. There has been no answer to that question.

NHS Lanarkshire, for example, has recently assured members of the Scottish Parliament that unlicensed drugs are used frequently and that it is using one now for eye conditions because it is cost effective. However, DTH is not used because it is unlicensed. There are such questions around. Why not DTH? We have had no real answer to that question.

I have received several letters recently on the matter—as I am sure the committee has. Obviously, I have no time to read them out, but the thrust of them is that people are still unable to get T3. NHS Tayside is seemingly the worst offender, and NHS Grampian is a close second.

The minister’s letter seems to commend the guidelines that were published in March, but they are not new—the committee has Lorraine Cleaver’s comments on them and Dr Midgley’s response. Two of the references are 28 years old, and the archived 2006 guidelines are also referenced. Therefore, we are no further forward. Dr Midgley has questioned Dr Colquhoun’s reasoning on the guidelines and has said that the reasoning is basically erroneous and that the statement is provably incorrect. He has sent Dr

Colquhoun two recent papers by eminent thyroid experts. That needs further consideration.

The draft guidelines from the National Institute for Health and Care Excellence are out, and they have no clinical evidence base. That is also an issue.

Thyroid issues were looked at during the Scottish Women's Convention's health presentation. I am not sure whether the committee has had any feedback on that—the committee considered that it could get that. In discussing the petition and whether to close it, it is fair to quote what Lorraine Cleaver said of her experience and the process. She said:

"Whilst we have made progress, within these five and a half years, people are still paying for private blood tests, consultations and thyroid medication online. We are basically paying a fortune for what we should be rightly provided on the NHS. It is still a battle. Often, it feels when we hold roundtables with surgeons and consultants that it is a bunch of professional men telling a bunch of women who are actually living this that they are wrong. So, the fight still goes on."

A proper exercise needs to be carried out by one of our committees to listen to the voices of the women sufferers. Their voices need to be heard.

10:30

When the committee heard directly from mesh survivors, it made a huge difference to their cause for justice. Of course, they have not yet achieved that justice, but it made a huge difference. Women patients' voices need to be put on the record in Parliament, so it is unfortunate that the Health and Sport Committee seems to be moving back from that. I hope, therefore, that the Public Petitions Committee might consider having a round-table evidence session to hear women's voices, and to hear directly from the sufferers.

The minister's letter refers to the questionable guidance, but he also says that he is "currently working with ... boards". I think that the committee needs an update from him on how he is working with boards and what they are saying, given that, as we know, NHS Tayside and NHS Grampian are still not supplying T3 to people who need it.

The minister mentions the Scottish endocrine interest group, but nobody seems to know who they are or what they do—perhaps the committee knows—and we also do not know whether general practitioners are in the loop. Have they been advised to refer to endocrinologists the 10 per cent of sufferers who are not doing well? Have they been advised that they need to keep prescribing T3, if necessary?

We should also remember that the Scottish Women's Convention is calling for specialist thyroid nurses. We need more women

endocrinologists and we need the same funding and level of concern that diabetes receives. Finally, surely Lorraine Cleaver needs to be heard before the petition is closed.

I ask the committee not to let down the sufferers, who are hoping for a better outcome, and to take some evidence and hear their voices before you conclude your consideration, just to find out whether the petition's aims have been achieved. I am sad to say that it does not look as though they have, at the moment. The minister has made a lot of suggestions about what might be, but there are no concrete answers.

The Convener: Thank you. Do members have any comments?

Brian Whittle: First, I thank Elaine Smith for the very passionate way in which she has led on the matter. I want to reassure her that we are in no way underplaying the issue. It is not only women who are affected, although sufferers are predominantly women. I have spoken to several.

The petition's aim was to make T3 more readily available. The minister has said that he wants

"a consistent prescribing policy towards T3 being introduced throughout Scotland and the application of this is part of our commitment towards safe and effective treatment for patients diagnosed with primary hypothyroidism."

I read in that a definite commitment from the Government and the minister to introducing T3 into the national health service.

However, as we know from the submissions that we have received and, now, from Elaine Smith, that is not happening in some areas. Is it now therefore an issue for the local MSPs? The committee has spent a lot of time and effort trying to push the petition forward—rightly so—but I wonder whether the effectiveness of what we could do would be outweighed by the effectiveness of local MSPs picking up the baton, for want of a better expression, and lobbying the minister to make it clear that what he thinks is happening and what he wants to happen are actually not happening.

Rachael Hamilton: There appears to be a logjam in health boards. Joe FitzPatrick has written to the boards, and all have replied with a commitment, but not all of them are carrying out the treatment, so he has said that he will work with the relevant boards to understand their processes better. How can the committee add benefit, if Joe FitzPatrick is currently trying to work out what the logjam is?

It is wonderful to hear Elaine Smith's passion. A lot of work has been done on the petition. I like her idea of a round-table evidence session, but I think that it might just take us backwards. After all, we

know what is out there and what the commitment is. My question is this: how will Joe FitzPatrick take the matter forward, and can the committee put pressure on him to do that? I am not sure.

Rona Mackay: I think that we should hear from the minister, because there are just too many unanswered questions. Given the logjam and the confusion, it would be best to hear the minister's answers to the questions.

Brian Whittle: We have spent a lot of time on the petition, so it is important that we have an outcome that at least partly satisfies the petitioners. However, I think that the only thing that is left to us is, as Rona Mackay said, to speak to the minister.

The Convener: No one wants to disappoint a petitioner. However, the petition has been with us since 2012, and the cost of spending a long time on one petition is that we are unable to hear others. That is a balance that we will always have to strike, and that is what we are wrestling with here. It is not that we are diminishing the issue.

A number of huge issues have been highlighted that people can campaign on through their MSPs, but I guess that there is one core and fundamental issue for members. Joe FitzPatrick said that he was going to sort this out; he received assurances that it would be sorted out, but that has not happened.

If we were to make one, and only one, commitment on the matter, it would be to bring Joe FitzPatrick before the committee and ask him questions about that. However, we would not want things to go beyond that. What the Public Petitions Committee does is a substitute neither for the work of subject committees nor for the normal business of campaigning and putting pressure on the Government through local MSPs about individuals' circumstances.

That is very much the basis on which we could continue. I am not sure that it satisfies anyone for us to continue the petition to no purpose—if our consideration is not effecting change—but my sense is that speaking to the minister would be the one thing that we could do. We should also make it very clear that there would be only that session.

Elaine Smith: Obviously, the committee would take a view on what Joe FitzPatrick had to say.

As for the suggestion that individual MSPs write to the minister, I have to say that they are doing that, and I am being copied into the emails. However, it does not seem to be having any effect. I am sure that Joe FitzPatrick is very committed to trying to make this happen, but boards are telling him that all is well while patients are telling MSPs that it is not. There is a logjam.

I also put on the record that the issue is not just T3. When this first started, T3 was not a big issue; rather, the issue was effective diagnosis and treatment of the gamut of thyroid conditions, including overactive and underactive thyroid, Graves' disease and so on. However, T3 then became an issue, which is why I said earlier that it looked as though T3 was being sorted out, but things have got worse over the period in which the petition has been considered.

The petitioner is perhaps disappointed that the Health and Sport Committee has not taken on board the direction from this committee—I say "direction", but I know that the committee cannot make anyone do anything—to do a short inquiry. We know that the voices of the women are out there: the committee has the 50 examples that were given many years ago. However, they have not been put on the record and they were not, in the end, featured in the committee's excellent report. That is why it would have been important for the Health and Sport Committee to take the matter forward. Obviously, that is something that I need to take from here and progress elsewhere.

The Convener: We could conclude our consideration by recommending that the Health and Sport Committee take the matter further, but it is not possible for all Government policy to be fed through the Public Petitions Committee and for that to be the means by which policy is changed. Our job is to shine a light on and inquire into such issues. My concern—which is not limited to this petition—is that the petitions that are in the system stay in the system while other folk cannot get theirs in at all. That is something that the committee's members have to be alive to.

Brian Whittle: I sit on the Health and Sport Committee, and the reason why we have not done anything with the matter is not that we do not want to. It is because, like all committees, we are absolutely rammed with issues of equal importance. The petition is in the system—we just have not got to it yet.

The Convener: We are very much alive to Elaine Smith's compelling case about the broader issues that have been raised by the petition, but on the focus of the committee's work, we are agreeing that we want to hear from the Minister for Public Health, Sport and Wellbeing on the gap between what he thinks is happening and what we are being told is happening. That raises a broader public policy question about how we break into a situation in which someone thinks one thing is happening but people's lived experience is entirely different. Do members agree with that course of action?

Members indicated agreement.

The Convener: In that case, we will move on. I thank Elaine Smith very much for her attendance.

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

The Convener: PE1545, on residential care provision for the severely learning disabled, was lodged by Anne Maxwell on behalf of the Muir Maxwell Trust.

At our meeting on 10 January 2019, we heard evidence from the Cabinet Secretary for Health and Sport in relation to the action that the petition calls for. We discussed the publication of the "Coming Home" report by Dr Anne MacDonald, which looks at out-of-area placements and delayed discharge for people with learning disabilities and complex needs. The report makes a number of recommendations, which the cabinet secretary has committed to implementing, and the petitioner feels that they support the action that is sought.

At that evidence session, the cabinet secretary offered to meet the petitioner and made a commitment to support research to establish the level of need for those with profound learning difficulties. I do not think that we have heard anything back from the cabinet secretary on the research that she agreed to support. That was a significant commitment. She cut across the conversation about whether it was necessary and said that she felt that it should happen. We should maybe write to her to ask how that is to be progressed in order to establish the level of need.

Do members have comments or suggestions for action?

Rachael Hamilton: I would like us to get some clarification around the fact that the Scottish learning disabilities observatory does not have an existing data set that includes a marker. We brought that up with the cabinet secretary, but I am unaware of how she is progressing with that.

The Convener: I think that that is the same question, is it not? How is the cabinet secretary going to do that? How are we going to identify the need? We cannot say that we will meet a need if we do not know what the need is. The cabinet secretary having made that commitment, I think that we should go back to her and ask when and how she is going to fulfil it. That would be useful.

Brian Whittle: I would like to know how the cabinet secretary's commitment to meet the petitioner is progressing and to get feedback on that.

The Convener: Okay. Is that agreed?

Members indicated agreement.

The Convener: We will write to the cabinet secretary to follow up on the commitment that she made at the evidence-taking session.

Healthcare Services (Skye, Lochalsh and South-west Ross) (PE1591)

The Convener: For the next petition, I welcome Edward Mountain MSP.

PE1591, which was lodged by Catriona MacDonald on behalf of SOS-NHS, is on the major redesign of healthcare services in Skye, Lochalsh and south-west Ross. We previously considered the petition in June 2018, shortly after Sir Lewis Ritchie's independent external view report was published. At that time, we agreed to keep the petition open for a minimum of six months to allow time for the recommendations in that report to be implemented. The Cabinet Secretary for Health and Sport welcomed the report and stated that she expected the recommendations in it to be delivered in full. To work towards that, she indicated that regular meetings and progress reviews would be carried out.

In a recent submission from the petitioners, which is included in our meeting pack, they state that they were concerned that Sir Lewis's six-month review identified concerns that progress on implementing the recommendations in his report was being hindered due to factors including poor communication and slow activity. Encouragingly, however, they indicate that the one-year review, which was conducted a little over a week ago, was much more positive. They appear to be happy that community representatives have met the new chief executive and interim chairman of NHS Highland, and they are now of the belief that the priority recommendations will be implemented in the coming weeks.

Kate Forbes MSP is unable to attend today's meeting, but has asked that the following statement be read out:

"I am sorry not to attend the Committee on behalf of my constituents as I have been at most of the other Committee hearings. This has been an incredibly long saga, and the tireless commitment of my constituents should be commended as well as the support of the Petitions Committee Members who have kept the petition open. This has given my constituents the comfort of scrutiny and accountability. The Cross Party work on this, with Edward Mountain and Rhoda Grant, has also proved invaluable.

Since the Ritchie Report, which was announced in October 2017 by me and Ian Blackford MP, there has been a thorough review, a series of recommendations and significant progress. Ultimately, last May it was agreed that Portree Hospital should, under no circumstances, be closed. A fortnight ago, Jeane Freeman came to Skye and Lochalsh to meet campaigners and healthcare professionals and it is safe to say that there is far more hope and confidence. I thank the Petitions Committee on behalf of my constituents."

I ask Edward Mountain to make a contribution, and then we will discuss what to do with the petition.

10:45

Edward Mountain (Highlands and Islands) (Con): It has been a great comfort to the people on Skye that the Public Petitions Committee has been considering the petition.

As members are aware, the problem concerns a redesign that was carried out by NHS Highland without consulting the people on Skye to any extent. I agree with Kate Forbes that there has been significant improvement. I remind the committee that, when we started the process, Sir Lewis Ritchie's recommendations were accepted by the Government. Barely six months ago, five were classed as red, meaning active but with major concerns; 11 were classed as amber, meaning active but with some concerns; and only one was closed. Now, two are still classed as red, 14 are amber and none is green, which means that none is on track.

There is still a huge way to go on the redesign. I am sure that I do not need to point out the Public Petitions Committee that there has been a significant restructuring of the board of NHS Highland, which is still bedding in. We have a new chief executive and a new chairman of the board. I do not believe that the people of Skye believe that the new system is working.

Sir Lewis Ritchie's latest report says:

"Although good progress has been made, it is important to note that the majority of recommendations are marked as amber, with several still marked as red and that there is, therefore, a clear need for ongoing intense focus on pushing forward with the delivery against the objectives in each work stream. We cannot be complacent."

I know that the Public Petitions Committee is always under pressure to consider new petitions but the point is that, as you rightly said, convener, it is the job of your committee to shine a light on subjects. You have done so in this case, but I ask you to keep the light focused on it, perhaps for another six months, until we get the next update from Sir Lewis Ritchie. I therefore urge the committee to keep the petition open and review it in six months' time, when we will have found out whether all his ambitions have been delivered by the Government and will know whether the people of Skye can feel confident that they are getting the health service that they demand.

Angus MacDonald: I am a weekly subscriber to the *West Highland Free Press*. I know that you do not like us to use props, convener, but I was heartened to see a headline in last week's edition, which I have brought in. The headline reads: "Round-the-clock urgent care to resume at Portree

hospital". Edward Mountain's contribution notwithstanding, the campaigners certainly welcome that. Clearly, congratulations must go to the campaigners and to the local MSPs and the health board, as well as to Sir Lewis Ritchie, the chair of the health board and the current interim chief executive, who brought a wee bit more enlightenment to the views of the health board.

In many ways, I see this as a good-news story, but I take on board the fact that a lot of the recommendations are classed as amber. There is clearly still work to do.

I think that, given that there has been a significant rethink, the petition has done its job. I would therefore be minded to close the petition at this stage, while reminding the campaigners that they have an option to submit another petition to the committee, should there be continued problems in the future and they do not see all the changes that they are seeking. At the moment, however, I think that the petition has done its job.

The Convener: Frankly, I do not think that it is possible for the committee to keep an intense focus on the specific issues in the petition. It is clear that the elected local representatives will continue to provide that focus, so it will still be there. The question is whether having the petition sit with us will enhance that focus. If we were to close the petition, we could write to the Scottish Government to highlight the specific areas that are classed as red and amber and to emphasise that there are still concerns. We could say to the petitioners that a new petition on the issue could be submitted in a year's time. That would be a more transparent position to take, rather than having the petition simply sitting in the public petitions process without the job that has been suggested being done.

Brian Whittle: I see the petition as a success for the campaigners. Our job is to shine a light on particular issues and bring them to the attention of the Government and the powers that be. I get frustrated with lots of petitions, but the committee, the campaigners and the local MSPs have been very successful with this petition, and we have an outcome. The decision is whether the committee holding on to the petition is the right way to hold people's feet to the fire. I agree with Angus MacDonald that, in this instance, we have probably taken the petition as far as we can, but I like the idea of writing to the Government to highlight the work that still needs to be done. A similar petition could be lodged, should things not reach the point that is needed, so I am minded to close the petition.

Rona Mackay: I broadly agree with Brian Whittle.

The Convener: I do not think that we need to snatch defeat from the jaws of victory. I say to Mr Mountain that a compelling case has been made, work has been done and commitments have been given. The test will be whether the commitments feed through. It would be a matter of some disappointment if a new petition needed to be lodged because the commitments were not matched by action on the ground and people continued to be disappointed. That, in itself, will perhaps concentrate some people's minds.

We recognise the campaigners' success and on-going interest. There will be an intense focus on the matter, and we will send a letter to the Scottish Government, along with a copy of the *Official Report* of this meeting, which will highlight the need for the Government to continue to respond to the local communities' concerns about potential problems in the area. We very much thank the petitioners and their advocates in the Parliament for the work that they have done, and we remind the petitioners that they can return to the question. Do we agree to that approach and to close the petition?

Members indicated agreement.

Pluserix Vaccine (PE1658)

The Convener: The next petition for consideration is PE1658, which was lodged by Wendy Stephen and is on compensation for people who suffered a neurological disability following administration of the Pluserix vaccine between 1988 and 1992. Members will recall that we were due to consider the petition at our meeting on 9 May but that, due to time constraints, we agreed to defer that consideration.

The petition calls for the Scottish Government to acknowledge and compensate people who suffered permanent neurological disabilities after having been administered with the Pluserix measles, mumps and rubella vaccine, which contained Urabe.

In its submission of 21 March this year, the Scottish Government acknowledged that some individuals who were affected by the vaccine might not meet the threshold for receiving a payment under the vaccine damage payment scheme. Although the Government makes clear that it sympathises with the individuals and their families, it notes that the issue of compensation under the scheme is a reserved matter. It adds that it does not have any plans to offer ex gratia payments.

The submission from the Department of Health and Social Care explains that the vaccine damage payment scheme provides a one-off tax-free lump-sum payment of £120,000. It also explains that the scheme was established to provide a measure of financial help in what it refers to as the "rare

circumstances" in which it is established that vaccination was the cause of severe disability.

The submission also refers to the two legal tests that require to be passed: first, that the damage was caused by vaccination; and, secondly, that the disablement is 60 per cent or more, thereby making it severe disablement. That is assessed on the same basis as the industrial injuries disablement benefit scheme, which is a widely accepted test of disability.

In the petitioner's submission of 28 April, she queries why the Scottish Government has

"not challenged Westminster's insistence that vaccine damage claims be brought in England and nowhere else".

She considers that it is unacceptable for individuals in Scotland who have been affected by the vaccine to be

"treated differently from other Scottish groups in similar circumstances, purely because the defective product was a vaccine".

In her most recent submission, which is dated 3 June, the petitioner provides further historical context, referring to trials, chief medical officer circulars, published papers and MMR working group minutes over the period from 1987 to 1989. She considers that there remain a number of unanswered questions relating to the gathering, retention and accessibility of data from that period, which she asks the committee to pursue.

Do members have any comments or suggestions for action?

Angus MacDonald: Clearly, we have a stalemate between the petitioner and the Scottish Government with regard to their views on the vaccine damage payment scheme. Given that the Scottish Government has no plans to offer ex gratia payments, I am afraid that, regrettably, I see no option for us but to close the petition.

Rona Mackay: That is my opinion, too. It has been stated clearly that we do not have anywhere to go on the issue, so I am afraid that we have to close the petition.

Brian Whittle: This is one of those petitions on which we have come to a dead end and there is no other action that we can take. We have two strongly stated positions and neither is going to move. Regrettably, I do not see what the committee can do.

Rachael Hamilton: The petitioner says that the Scottish Government could implement a scheme to address the issue, but the Scottish Government disagrees. Therefore, as Angus MacDonald said, we have a stalemate. I would be interested to know whether individuals who are in such circumstances can apply to the fund that is administered by the UK Government, as that is

perhaps why the Scottish Government has responded in the way that it has.

The Convener: We could encourage the petitioner to speak to her MP. Compensation under the scheme is reserved and is administered by the UK Government. It is administered in England, but by the UK Government, and I presume that it therefore covers all victims across the United Kingdom. The petitioner's elected representative could pursue the issue through that process.

I share the view that there is nothing productive that the committee can do further, although I am sure that the clerks would be happy to direct the petitioner towards the appropriate place to get the help that she might require in pursuing the issue at the UK level. Do members agree to close the petition on that basis?

Members indicated agreement.

Hepatitis C (Treatment Targets) (PE1689)

The Convener: The next petition for consideration is PE1689, on hepatitis C treatment targets in Scotland. At our previous consideration of the petition, which was last year, we agreed to write to the Scottish Government, NHS boards, alcohol and drug partnerships and the Scottish Prison Service. We have received responses from those bodies as well as a written submission from the petitioner. All that information is contained in our meeting papers.

The Scottish Government states in its written submission that it

"is committed to eliminating hepatitis C as a public health concern and real progress has been made in this area."

It continues:

"targets for initiation on to hepatitis C treatment are a minimum and the latest figures for 2017/18 show that the treatment target for that year was exceeded."

A number of written submissions have been received from health boards in relation to the action called for in the petition. The petitioner's submission states that, although health boards provide sufficient funding to meet minimum targets, it is clear from their responses that

"exceeding the minimum treatment target is discouraged, both through the setting of the HCV budget at the level of the minimum target, and through additional measures."

Some of the written submissions received from health boards explain that, to meet and exceed Scottish Government targets, additional investment will be required.

In his concluding remarks, the petitioner raises the concern that the Government

"seems to have abandoned its ambition to be pro-active in pursuit of eliminating hepatitis C".

The petitioner goes on to suggest that that ambition could be achieved by

"combining the Scottish Health and Blood Borne Virus strategic funding with treatment budgets, and ringfencing both at a health board level to encourage re-investment of treatment cost savings into additional case-finding for hepatitis C".

Do members have any comments or suggestions for action?

11:00

Brian Whittle: This is a really interesting petition on an issue that we have debated in the chamber. We are talking about a disease that can be eliminated, and I think that we should be not just aspiring to do that, but driving towards doing it. The cost of treating hepatitis C is in the region of £10,000 a year, but the cost of dealing with the aftermath of the condition if it is not treated in the first instance is huge. In my view, the issue falls within the preventative health agenda. We can proactively eliminate hepatitis C. Therefore, the petitioner has a very good case, and I think that we should push the Government because, by doing so, we can have an effect on the ground.

A study has been done—in Dundee, I think—that suggests that hepatitis C could be eliminated in as little as four years. Even on a cost-based analysis, we should have the ambition to do that.

Rachael Hamilton: I completely agree that it should be the Scottish Government's ambition to eliminate hep C. The petitioner makes a very good point about how the savings from the treatment costs could be reinvested to speed up the process of eliminating the disease.

Angus MacDonald: I agree with Brian Whittle and Rachael Hamilton. According to our papers, my health board—NHS Forth Valley—has raised the issue of additional investment to deal with the condition. NHS Lothian, too, has called for additional funding. I would certainly be keen to find out from the Cabinet Secretary for Health and Sport whether it would be possible to provide such funding, because it seems that there is an easy fix that could deal with hepatitis C in four years. If we can get on and do it, let us do it.

The Convener: There is a question about the use of moneys to identify hard-to-reach groups, but at least some of the health boards have said that there has been a clawback of funds, which they have used for other things. That has meant that, even though the treatment is now cheaper, it is not the case that more people have been treated. That is an example of short-termism, notwithstanding the budget pressures that we know exist. I find the case for eliminating the condition—given the benefits that would come from that—compelling. It is a question of getting a

sense from the cabinet secretary of whether that is still the Government's focus. Why has it kept the target that was agreed? If we could reach more people with the same money, why are we not reaching more people?

We could write to the cabinet secretary to ask about the concern that has been expressed about whether there is a desire to eliminate hepatitis C as quickly as possible, and to ask for an update on any plans that the Scottish Government has to develop a strategy for hepatitis C elimination, following the work of Health Protection Scotland.

Brian Whittle: There is an addendum to that—there are other factors that would have to be considered. Things such as needle exchange programmes would have to be provided to make sure that the condition did not proliferate again.

The Convener: The issue is not just the drug but the context. I accept that funding might need to be used to find people, to overcome stigma and to ensure that people will come and be supported. However, my feeling is that the drive to elimination has been lost and that we are not benefiting from the fact that the treatment is now cheaper, which means that the ambition could be increased rather than stay the same.

Do we agree that we should write to the cabinet secretary along those lines?

Members indicated agreement.

The Convener: If the petitioner wants to respond to what he has heard, he will, of course, be able to do so.

Public Access Defibrillators (PE1707)

The Convener: The next petition is PE1707, on public access defibrillators. I welcome Stuart McMillan MSP for our consideration of the petition. Members will recall that we took evidence from Kathleen Orr, who lodged the petition, alongside Stuart McMillan at our first consideration of it, which was in November 2018.

The clerk's note summarises the submissions that we received subsequent to our initial consideration of the petition. It notes that all the submissions support the action that the petition calls for, but that they also make constructive observations on some aspects of it. For example, the Resuscitation Council UK and the British Heart Foundation suggest that there should be less focus on the fitting of defibrillators to the exterior of buildings that are over the size that is suggested in the petition and that it is more about ensuring that they are placed in strategic locations where they are most needed. They note, however, that it can be difficult to establish with a high degree of accuracy where the optimum placement of defibrillators would be, as there is no public

access data that maps the locations of out-of-hours cardiac arrests.

The two organisations also mention barriers to bystander use of defibrillators, which are covered in paragraphs 14 to 16 of the clerk's note. Members will note that both organisations are clear that survival rates from out-of-hours cardiac arrest could be improved if there was an increase in public education and in awareness, availability and accessibility of defibrillators.

The petition calls for defibrillators to be officially registered with the Scottish Ambulance Service. That proposal has received strong support from all those who responded, and members will note from the submissions that work is going forward in that area. The Minister for Public Health, Sport and Wellbeing mentions the work to develop a UK-wide defibrillator network, and at a local level the Caithness defibrillator campaign group sets out the work that it has undertaken to increase registration of defibrillators in that region.

I invite Stuart McMillan to comment on where we have got to with the petition.

Stuart McMillan (Greenock and Inverclyde) (SNP): Thank you, convener, and thank you for your welcome earlier. In general, I found the replies and the submissions from the organisations both useful and helpful. The committee will be aware that Kathleen Orr states in her reply that the 7,500m² idea is not fixed. However, it has certainly engendered further debate and discussion and highlighted the importance of access to defibrillators, as well as the issues of training and understanding of their importance.

In his reply, the minister, Joe FitzPatrick, highlights the university project that is under way. It is still to conclude, but he states:

"the conclusion of the Edinburgh University project would be a good opportunity to revisit and consider requirements for PAD locations."

I welcome the debate on the subject, which is not finished, as there is still further work to be done. I ask colleagues on the committee to keep the petition open in order to undertake further activity in due course.

The Convener: Thank you. Do committee members have comments on how we should take the petition forward?

Rachael Hamilton: I just want to make a comment, following what Stuart McMillan said about the nature of the petition. The committee is fully supportive of it, and I note that it has changed and evolved from the original intention. That is important, particularly with regard to the feedback from the British Heart Foundation and the work that it has been doing with the University of

Edinburgh on the project on the location of defibrillators. We know that the British Heart Foundation is also working with the Scottish Ambulance Service and the save a life for Scotland partnership. So many people have a vested interest in this.

Even though we have not stuck to the line of the petitioner's intention with what we have done so far, it is still there. It is exciting how everybody is working together. I would like to hear more about the Edinburgh project and more about what is being done by the Scottish Ambulance Service and others who are involved in this collaborative process.

Brian Whittle: I congratulate the petitioner on raising the issue and commend Stuart McMillan for supporting his constituent. The petition is hugely important. As Rachael Hamilton said, the issue seems to have evolved as a result of discussions among a number of agencies. Most important, everybody is agreed that we want to get the best, most positive outcome that we can, and everybody is throwing ideas into the pot towards that end. The way forward for us might be to get all the agencies together in one place and hammer out what option would lead to the best possible outcome. Perhaps we could have a round-table evidence session. That would be very useful in getting the best possible outcome for the petition.

Angus MacDonald: We need to get to the bottom of why there seems to be not blanket reluctance but some reluctance about the registration of automatic external defibrillators. It seems that everyone would jump at the chance of having a collated list of where all the AEDs are, and I would be particularly keen to explore that issue if we have a round-table session.

Rona Mackay: I agree with everything that has been said. We are on the cusp of something really good with this hugely important petition. I am supportive of having a round-table evidence session. Bringing together the stakeholders is a really good idea, and we could flesh out issues about AEDs such as the one that Angus MacDonald raised.

The Convener: I think that we are all alive to the petitioner's views. We are grateful to her for sharing her direct experience—it was very powerful evidence. It feels as though everybody probably agrees on the theory, but what would practical delivery look like? What are the blockages? Why are people hesitant? How would AEDs fit with the broader issue of first aid, cardiopulmonary resuscitation and all the rest of it? What about the issue of coping with a crisis of that nature away from a hospital setting?

There is general agreement to have a round-table evidence session with stakeholders—

perhaps those who have provided written submissions and suggestions could be part of that. Obviously, we would need to look at who else to include. I think that we would want to invite the petitioner—she may feel that she would not want to be part of that, but that option would be there. We could also invite the Scottish Ambulance Service, the University of Edinburgh and others that have engaged.

Do we agree to have a round-table evidence session and to delegate to the clerks consideration of who would be most usefully brought together for such an event? We would want the session to be manageable and productive and for it to meet the petitioner's desire that the whole area of public access defibrillators is looked at thoroughly.

Members indicated agreement.

The Convener: Thank you. I thank Stuart McMillan for his attendance.

Soul and Conscience Letters (PE1712)

The Convener: PE1712, on soul and conscience letters, was lodged by Laura Hunter. We last considered the petition at our meeting on 6 December 2018 and have since received submissions from the Scottish Government, the Crown Office and Procurator Fiscal Service, the British Medical Association Scotland and the Law Society of Scotland.

The Scottish Government has provided a clear response that the court regulates its own procedures and that it would not be appropriate for the Scottish ministers to comment on or seek to influence the work of the Lord Advocate or members of the judiciary. The BMA's position is:

"it is our belief that the use of soul and conscience letters provides a proportionate mechanism whereby doctors can offer important evidence to courts, without impacting too significantly on the time needed to care for patients."

The Crown Office and Procurator Fiscal Service makes it clear that any matters relating to delays or the halting of legal proceedings, including the ability to request further information, are for the court. It also provides details of legislation that enables accused persons to appear in court via videolink or for proceedings to take place in the absence of the accused under certain circumstances.

On the matter of providing evidence via videolink, the Law Society of Scotland raised a number of concerns about the reliability of its use, the need to ensure that the accused is in a secured environment free of influence, and the need for confidential communication between the accused and their solicitor.

As for the aim of the petition, the Law Society of Scotland has stated that better information could

be made available to the public about the meaning and effect of soul and conscience certificates and to the medical profession about what information is required. Its written submission also points out that it is unaware of any current abuse of the process and that the courts have always had the discretion to look behind soul and conscience certificates when they are produced.

Do members have any comments or suggestions for action?

Brian Whittle: First, it would be interesting to hear the petitioner's views on what we have received, and we could ask BMA Scotland for its opinion of the Law Society's suggestions.

The Convener: We are agreeing to write to the BMA to ask it to comment on the Law Society's views on improvements that might give people confidence in the process. Again, we will also want to write to the petitioner, seeking her views on the written submissions that we have received.

Rachael Hamilton: If we are going to take evidence from the Law Society on this, will it be able to tell us what alternatives could be put in place?

The Convener: I do not think that the suggestion is that we take evidence from the Law Society of Scotland. It has suggested some improvements, which have been set out in our papers, and we are going to ask another organisation to comment on those suggestions. The Law Society recognises that this is not a case of someone just saying, "I can't come to court because I'm not well." The fact is that proceedings get delayed, and people need to have confidence in the reasons for that delay and in the process itself, which might mean a doctor having to come to court to justify why they have signed one of these letters. This is at a different level to simply signing someone off as unwell. We would therefore want to get BMA Scotland and any other relevant organisation to comment on the improvements suggested by the Law Society of Scotland as well as seek the views of the petitioner. Are members agreed?

Members indicated agreement.

The Convener: That ends the public part of the committee's work. We now move into private session.

11:17

Meeting continued in private until 11:27.

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