



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 30 January 2020

Session 5



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Thursday 30 January 2020

CONTENTS

	Col.
CONTINUED PETITIONS	1
Youth Football (PE1319)	1
Speed Awareness Courses (PE1600).....	28
Glue Traps (PE1671).....	29
Cat Population (Management) (PE1674)	31
Additional Support Needs Schools (PE1709).....	32
NEW PETITIONS	35
Private Criminal Prosecutions (Legal Aid) (PE1766).....	35
Children’s Hearings (Record of Proceedings) (PE1768).....	36
Higher Education (PE1769).....	37
School Curriculum (Sex and Relationships Education) (PE1772)	39
Rape Law (PE1773)	41
School Curriculum (British Sign Language) (PE1777)	42

PUBLIC PETITIONS COMMITTEE

2nd Meeting 2020, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Maurice Corry (West Scotland) (Con)

*David Torrance (Kirkcaldy) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Alyson Evans (Scottish Football Association)

Ian Maxwell (Scottish Football Association)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Public Petitions Committee

Thursday 30 January 2020

[The Convener opened the meeting at 09:15]

Continued Petitions

Youth Football (PE1319)

The Convener (Johann Lamont): I welcome everyone to the second meeting in 2020 of the Public Petitions Committee.

The first item on the agenda is consideration of continued petitions. The first petition for consideration is PE1319, on improving youth football in Scotland.

As members will be aware, last year we agreed to take evidence on the petition from the Children and Young People's Commissioner Scotland and the Scottish Football Association. At our meeting on 7 November, we heard from the children's commissioner and, today, I am pleased to welcome from the Scottish Football Association Ian Maxwell, who is its chief executive, and Alyson Evans, who is its child wellbeing and protection manager.

I invite Mr Maxwell to give a brief opening statement before we move to questions.

Ian Maxwell (Scottish Football Association): Thank you, convener, and good morning, ladies and gentlemen.

I extend my thanks to the committee for the invitation to come here today. It is the first time that Alyson Evans and I have had the opportunity to speak to the committee since coming into our respective posts, and for me, as chief executive, it is my first opportunity to underline my approach to the issues that are raised by the petition.

I thank the petitioners and the committee for their hard work over the past 10 years in this important area in football. The evidence that has been heard by the committee has been very important to me in approaching the questions that have been raised.

I want to be very clear from the outset that children's wellbeing is central to our work at the Scottish Football Association. We have a dedicated team of six people in a newly formed wellbeing and protection department, with strategic oversight by an independent wellbeing and protection advisory board, which is chaired by Jackie Brock, who is the chief executive of Children in Scotland. Some of you might know her

through her work to review Scotland's system for safeguarding vulnerable children, which was commissioned by the Scottish Government.

In August last year, we published our new "Child Wellbeing and Protection Strategy 2019 to 2024: Getting it Right for Every Child in Scottish Football", which takes its lead directly from the Scottish Government's framework for supporting children and young people. Alyson Evans will touch more on the detail of that this morning.

I mention the background not to suggest by any stretch of the imagination that Scottish football's journey of improvement is complete, but to highlight the tangible progress that has been made during the span of the petition, and the level of priority that the matter now has in Scottish football and in the Scottish FA.

I am more than happy to address the committee's long-standing concerns during the course of our discussions. However, I would like to state that in relation to registration of players from age 15 playing as part of the club academy Scotland programme, I have established a working party, which includes representation from all CAS levels, to look specifically at the registration rules in relation to 15, 16 and 17-year-olds. The first meeting will take place on 26 February and representatives will question whether, in 2020, the current regulation is viable or whether, with the best of intentions, it is a rarely used rule that carries negative consequences for young people and should be revisited.

I now hand over to Alyson Evans, who can describe a bit more of the child wellbeing and protection work.

Alyson Evans (Scottish Football Association): Good morning.

I start by underlining that the wellbeing and protection of children is an absolute priority for us, at the Scottish FA. Since the petition was first lodged, a huge amount of work has been undertaken by the Scottish FA and its members in relation to child wellbeing and protection, and the culture and values that we want in Scottish football. The culture is based on children's human rights—in particular, rights to protection from violence and exploitation, for their views to be sought and to influence matters that affect them, and for their best interests to be, as a minimum, a primary consideration.

In October 2016, the Scottish FA's board issued a directive to all its members setting out the minimum standards that it expects in relation to child wellbeing and protection. The directive covers issues that include information sharing; adoption of a consistent policy framework; appointment and training of a child wellbeing and protection officer by every club; a robust

appointment and selection procedure for everyone in regulated work with children and young people, including membership of the protection of vulnerable groups scheme; and training requirements for everyone who works or volunteers with children and young people.

Evidence that the standards are being met is required as part of a member club's annual licensing audit and in the specific wellbeing and protection audits that we carry out in the non-professional side of the game. We are very clear that what the directive sets out are minimum standards for child wellbeing and protection.

The new strategy that Ian Maxwell mentioned will take that work much further. It was developed in consultation with many parts of the game and seeks to achieve transformative change in those areas within the culture of Scottish football. The strategy will guide our work over the next five years and beyond. It sets out five strategic outcomes that we want to achieve for children and young people: around our policies and practices, in the participation of children and young people in matters that affect them, in our learning and development, in our quality improvement and in our leadership.

It is a bold and ambitious statement of our intention, because we firmly believe that children and young people who are involved in Scottish football deserve nothing less.

The Convener: Thank you for that. We will move on to questions. There will be questions on the new information that you have provided us with today. Do you have a timescale for the working group to report?

Ian Maxwell: As I said, the group's first meeting will be on 26 February. We will go through the process, which will not take a huge amount of time. I do not have a definitive timescale for its completion.

The Convener: Given how long the petition has gone on, I presume that you will be keen to identify a timescale.

Ian Maxwell: Yes.

The Convener: It is the longest-running petition in Parliament—it has been running for 10 years. I do not think that that is simply because we like the idea of having conversations about football every so often. We understand that, in the light of the issues that were raised in the petition, work has been undertaken by the SFA and the Scottish Premier Football League. However, given what has emerged about the magnitude of the issues, it feels as though the pace has been worryingly slow. Significant issues remain about how children are protected in youth football. Do you agree that there has been reluctance to engage and

acknowledge the issues? To what extent will what you are now saying match the level of concern that has been expressed?

Ian Maxwell: I can talk only about my experience and my time in post; I have been in post for 18 months. As Alyson Evans said, a new child wellbeing strategy has been launched in that period. It is very much a focus of the work that I do, and Alyson and the child wellbeing team report directly to me. I am keen to get the meeting of the clubs arranged and to get that process under way so that we can review the regulations, because I appreciate the concerns.

The Convener: Some folk have suggested that the football authorities have just been sitting out the petition in the hope that it will go away and are saying that there is not much to see, here. Is what you are now saying a recognition that that approach was wrong and that there are key issues with regard to the rights of young people, which have been ignored for too long?

Ian Maxwell: Again, I will talk only about my time in post. I am more than happy that the petition is being reviewed. I will not comment on whether it has been sat out; that would not be appropriate, for me. Since I have been in post, we have put a new strategy in place and I am committed to reviewing the regulations and to taking on board the committee's concerns.

The Convener: Will the strategy be published? How will you ensure that young people and their families are aware of their rights and entitlements? There is an issue about the culture of football in that because of how potentially life changing it can be, young people and their families might almost be willingly exploited. To what extent will the strategy prevent that kind of playing with people's dreams?

Ian Maxwell: The wellbeing strategy document has been published and is available online to anybody. With regard to exploitation, we take on board the committee's and the petitioner's concerns. I am committed to reviewing the petition. With regard to exploitation in football, everybody talks about power imbalance; the committee has talked a lot about it. In any sport in which a coach has the opportunity to choose players in a team environment, there is a power imbalance in that relationship. We cannot get away from that or change it. Our focus is on making sure that the power in the relationship between the coach and the player is not exploited or abused.

The Convener: You will recognise that encouraging families to sign contracts that pay £1 a week is about more than merely the power to pick a team. First, it was breaking the law but, secondly, it was encouraging young people and

their families to sign up for something that was not in their interests.

Ian Maxwell: That practice was absolutely and fundamentally breaking the law. I can tell the committee about my experience of minimum-wage requirements. I know that the Scottish FA and the SPFL spoke about that when they were last at the committee. I was chief executive of a Premiership club for seven years, including when the story broke about the minimum wage and the £1-a-week players. I think that that was in 2015.

Not long after that, my club was the subject of an audit by Her Majesty's Revenue and Customs, which went through every area of the business. HMRC audits businesses as it sees fit, and there was a focus on football clubs. The inspectors looked at all our contracts, from those of adults to those of youth players who were on professional contracts, and interrogated the players about their working time and their travelling time to matches to ensure that all the requirements were being met. They independently verified the information that we gave them by phoning individual players to make sure that what we were saying was correct.

A huge amount of work has been undertaken; we are not aware of any players who are on contracts that pay less than the minimum wage. I implore anybody who is on such a contract to get in touch because we exist to deal with such issues. The SPFL has regulations that clubs sign off to say that they are minimum-wage compliant, and there is a section in the Scottish FA registration form in which clubs confirm that they are minimum-wage compliant. Anybody who is working for less than the minimum wage should come forward to the Scottish FA.

The Convener: The Scottish FA was signing off contracts that explicitly said that people would get paid £1 a week.

Ian Maxwell: The Scottish FA does not sign off contracts. Under FIFA regulations, we are concerned with registration. Our focus is on whether the registration of a footballer is valid for a number of reasons that match FIFA criteria.

A secondary issue is the contract of employment, which is between the employer—the club—and the player. We do not have oversight of those contracts. They are between employers and employees and are not a matter for a football governing body.

The Convener: We can go back and look at the evidence, but I was struck that people tried to justify the situation by saying, "Well, it's very complicated and the people involved might not work many hours, blah, blah, blah." You say that there has been a sea change in attitude and that that would not now be acceptable.

Ian Maxwell: Absolutely.

Gail Ross (Caithness, Sutherland and Ross) (SNP): You say that a huge amount of change has happened since the petition first came to us in 2010. Alyson Evans used the term "transformative change", which is heartening to hear. How do you work with the football clubs? Transformative change can be difficult to embed when you are working with several organisations. Is there a designated person for you to work with at each club? How does it work in terms of your relationships?

Alyson Evans: Every club—member clubs and the non-professional side of the game—is required to have a dedicated child wellbeing and protection officer. Some clubs have more than one person, depending on the size of the club and the number of young people. My team and I work closely with the child wellbeing and protection officers. We are always available to provide them with support on particular issues, and we have a formal quarterly meeting with them. We have a network for the officers in our member clubs and we come together quarterly to discuss particular issues, share good practice and spread learning on child wellbeing and protection.

Gail Ross: What feedback have you had from the clubs about how the change is going?

Alyson Evans: We have on-going dialogue with our clubs, principally through our network meetings. We want to embed a culture in which they understand and take forward particular issues, rather than dictating to them what they require to do. We believe that that will bring about the change in our culture. You are right to highlight that it will be a long piece of work; the culture will not change overnight. However, the child wellbeing and protection officers and I are absolutely committed to bringing about that change over time, and to striving always to do the best that we can and never to stand still in this area.

Ian Maxwell: It is worth pointing out that over the past number of years there has been a sea change in how club academies, particularly at the elite level, and club academy Scotland—which is what we are focusing on—develop people as individuals as well as as players. If you speak to any academy coach, you will find that the academy ethos across the country is obviously about developing good footballers, but it is also about developing good individuals and good people. The academies have done a huge amount of work. The clubs at the top level do a huge amount in off-field—for want of a better expression—development of children. They have full-time education welfare officers, and there are player-care teams in place to ensure that the

player is developing as an individual, as much as he is developing as a footballer.

That is very much the focus of the academies. I am sure that anybody who has been to an academy will have seen that first hand. I know from my experience that that is absolutely the case. It is not all about football; it is about the person, because a happy person will flourish in any environment, and that translates on to the football pitch.

09:30

Gail Ross: How open are the academies and clubs to having dialogue with parents and guardians if there is an issue?

Ian Maxwell: That is an on-going process. Parents meet representatives of the clubs four or five times a season. It is, in effect, like parents night at school, but probably more regular. Those conversations are on the player's ability, attitude and work ethic, and they give the parents a chance to ask the club any questions that they have. Some clubs have set up player forums to give players an opportunity to contact the club about concerns and to ask questions. Parents forums do the same for parents by giving them the opportunity to engage with clubs. Clubs are absolutely aware of the importance of the player and the family dynamic. The more they can engage, the better.

People mention exit trials when players leave clubs. It is very rare that a player will walk into training one morning and be told, "We don't want you any more." The process happens over months. There is on-going dialogue, particularly if clubs have concerns about a player's development with regard to the rest of the team. That is not something that clubs do willy-nilly; it is not a decision that they take on a whim. A lot goes into ensuring that the player is as good as they can be.

Even with the exit strategy, when it comes to the point at which a player is going to leave, clubs do a huge amount to ensure that they stay in the game, including by making other club academy Scotland clubs and clubs in the recreational game aware that the player will be available. There are clubs that provide players who are leaving them with DVDs with footage or clips, with GPS and scientific data that will, we hope, allow them to get to the next best club. I know from experience, from a club perspective, that that aspect is very player centred.

Gail Ross: We have quite rightly spoken about culture change. Alyson Evans said that change happens over time and can sometimes be difficult to achieve. Have you come across issues that you have had to address?

Alyson Evans: Do you mean regarding the culture or attitudes?

Gail Ross: Both. I mean regarding transformative change with the clubs, which you mentioned.

Alyson Evans: I have not identified any major issues. It is fair to say that much capacity building is needed across the game for learning and development and for people to understand the issues, but I have not come across anyone who has shown particular resistance to having child-protection measures in the game. There is a basic understanding of what the measures look like and how to put them in place. That is a typical feature of the dialogue that we have with clubs.

Brian Whittle (South Scotland) (Con): We recently had the Children and Young People's Commissioner Scotland before us to give us evidence. He accepted that issues that were raised in his predecessor's 2015 report had not been completely resolved. What contact has the Scottish FA had with the commissioner's office about the petition—and, indeed, about wider child protection matters—since the new commissioner came into office, in 2017?

Ian Maxwell: In the just over 18 months since I came into post, the only contact that we have had with the commissioner followed our previous appearance at the committee, which I think was in November 2019. I contacted him and asked whether he would like to meet, and he replied that he was aware of our upcoming opportunity to give evidence to the committee and he wanted to wait until the other side of that. This week—either yesterday or the day before—we got another letter from the commissioner, asking us to go to a meeting that he would facilitate involving us, the Scottish Government, the petitioners and him, and I would be more than happy to do that. That is the contact that we have had.

Alyson Evans: On an operational level, we have contact with the staff in the commissioner's office in relation to children's rights issues and to draw on their expertise in those areas. They previously provided training to our youth ambassadors on children's rights, and we have dialogue with them on particular issues and seek their advice on certain matters.

Brian Whittle: You wrote to the children's commissioner after he gave evidence to the committee in November 2019. I would have thought that it would have been to their and your advantage to get together prior to today's meeting, to shape how you go forward. Are you telling me that they did not want to meet you prior to the meeting?

Ian Maxwell: That is correct.

Brian Whittle: Let us move on to your work on wider child protection matters and the PVG checking of coaches, which is an issue that has been raised over a long period of time. At the time that the petition was lodged, a significant number of coaches had not gone through PVG checking, and there was an undertaking to address that situation. Will you give us an update on that?

Ian Maxwell: That situation has been addressed. There is a robust selection and recruitment process in place that clubs have to adhere to, which requires that coaches are PVG checked before they start work at a club. It covers club academy Scotland and our affiliated national association, the Scottish Youth Football Association, which does not allow coaches to take up posts until they have been PVG checked. We are confident that the PVG-checking regime that we have in place is accurate.

I go back to my experience in a club. There are different roles in clubs, and you will be aware that, for the Disclosure (Scotland) Bill, they are reviewing what is defined as a regulated role in sport—and in football, in particular. I remember being concerned that the PVG framework at the time did not cover roles in football that we, as a club, thought should be covered. For example, kit men were not covered. A kit man could have engagement with players, but if we sent a PVG check form for them to Disclosure Scotland, it would be rejected because “kit man” was not defined as being a regulated role.

That has changed. The consultation that Disclosure Scotland has undertaken has allowed us to present the roles that we think should be defined, and I hope that it will tighten up such areas. We have been very engaged in that process, and we would be happy to engage as much as we possibly can, because it is absolutely right that all the individuals and touch points in a football club are covered.

We are confident that the coaches who work in Scottish football, whether in the recreational game or at the elite professional level, are all adequately PVG checked. However—Alyson Evans will probably want to jump in here—the PVG check is a small part of the process. Getting us to the point that we all want to be at is far more to do with culture, methods, awareness and education.

Brian Whittle: I agree with your last statement, and that is the direction of travel that I want to go in. We recognise that the vast majority of coaches, many of whom are volunteers, do a fantastic job. The Public Petitions Committee is interested in ensuring that the more unscrupulous or, if I may use the term, uneducated coaches do not slip through the net. How are the checks done? How do you manage the process and interact with coaches?

Ian Maxwell: From a PVG perspective?

Brian Whittle: From a PVG checks perspective, especially at the amateur level.

Ian Maxwell: There is an online system. Alyson Evans will correct me if I am wrong, but I think that the Scottish FA’s information technology system covers the recreational side of the game. A coach cannot be registered unless he has a PVG number. He cannot be authorised to coach at a club unless he has a PVG number, which goes through the IT system to be checked and approved. There is an automated system in place for that.

Brian Whittle: You raised the issue that people in a club who perhaps have a role in which they interact with children should be PVG checked. It has been raised with me that intermediaries and agents perhaps do not have to go through that process. Is that correct?

Ian Maxwell: That is correct at the moment. I think that they would fall within the definition of regulated roles under the Disclosure (Scotland) Bill—as should scouts. We are more than happy to engage with Disclosure Scotland on who we think should be covered and where the touch points are within football; however, going forward, intermediaries will be covered.

Alyson Evans: Yes, that is our understanding.

Brian Whittle: Okay. Thank you very much.

Maurice Corry (West Scotland) (Con): Good morning. A key concern that has been highlighted to us is the three-year registration period for players and how the balance of power seems to be stacked heavily in favour of the football clubs rather than the best interests of the child. How does the SFA respond to that significant concern?

Ian Maxwell: At the start of the meeting, I highlighted the fact that we plan to review the three-year registration period. We note the committee’s concerns.

It is appropriate to look at it in context. There are just over 2,000 players in the club academy Scotland system. That number has reduced dramatically over the years, because clubs want to work with a more select group of players—it is not about hoovering up as many as they can. Under our regulations, clubs can have a maximum of 16 players in each age group. Of the 2,000 players, an average of 500 annually—over the past two years, just over 1,000—have moved club, whether from a club academy Scotland team to the recreational game, from the recreational game into club academy Scotland, or from one club academy Scotland team to another. There is a huge amount of movement from club to club, involving a quarter of the players in the programme on an annual basis.

The argument that players are not allowed to move does not stack up—the reality is that players are allowed to move, and there is a huge amount of movement of players. That starts with the player's relationship with the club. Players move for a number of reasons: because the club and the player agree that it is in everybody's best interests that the player gets more game time somewhere else; because parents move or relocate through work; or because a player is unhappy. All those things happen on a weekly basis, and that movement is down to the relationship between the clubs and the players. Although the regulation makes it look like players are stuck for a three-year period, the reality is that there is movement within club academy Scotland. We are not aware of any players being held in contracts that they cannot get out of.

Maurice Corry: What is the break clause within the three-year registration if someone wants to move? Are you aware of anybody having had a problem in being unable to move because they have been pinned down by the three-year registration?

Ian Maxwell: We are unaware of that.

Maurice Corry: What is the notice period?

Ian Maxwell: Again, I will talk about the reality. If a player is registered to a club and wants to move for whatever reason, he engages with the club. There are very few occasions when a parent contacts the Scottish FA because a situation has arisen at a club, asking how to get through the process. However, if they do, we will facilitate that move.

Our young player wellbeing panel has the ultimate responsibility in the termination of a contract. If a player comes to us with any concerns about how they are being treated, or any other justifiable reason, we can take action to terminate the contract. However, we are not seeing players who want to leave a club being prevented from doing so. I am not aware of anything of that nature.

I touched on the work that clubs are doing in the development of people. Clubs want their players to be the best that they can be. Unhappy people—in any environment—do not make good staff or good sportspeople. It does not make any sense. If there is an issue between a player and a club, it is in everybody's best interests that a resolution is found, and, in our experience, that is what happens.

Maurice Corry: Ms Evans, how long have you been in your role?

Alyson Evans: Just over two years.

Maurice Corry: Are you happy that the documents that the player has to sign, or that the

parents or guardians have to sign or approve, contain clauses that reflect what Mr Maxwell says about people being able to move, have three months' notice or a cooling-off period or have mediation by the SFA? Is that made quite clear? I presume that it is in writing and they sign it.

Alyson Evans: We have produced information for children, young people and parents on all those issues, because we recognise their complexity, and we keep that information under continuous review.

We are currently reviewing the information that is available on our website and to clubs for the start of the next season, to make sure that it is as accessible as possible. That information explains the formal mechanisms whereby a young person can leave a club, which ultimately involve contacting the Scottish FA, as Ian Maxwell said. We will undertake some mediation in those circumstances. On the handful of occasions of which I am aware when parents have come to us, we have reached a successful solution and the young person has left the club.

As Ian Maxwell said, the young player wellbeing panel is the ultimate body. It would be available should a young person and their parent wish to raise a matter with it.

09:45

Maurice Corry: Okay. You have made much of visiting the website, but some people might not be able to do that. Is what I mentioned physically written in the contract with the child or young person, which the parents or guardians will see? We hear the hyperbole about its all being on the internet, which is fine, but is what I mentioned physically written in the legal document?

Alyson Evans: We have tried to make our guide as accessible as possible to young people, and we ask clubs to make it available to the young person and their parents when they are looking at the formal documentation. By its very nature, the documentation is more formal than we would want it to be for a young person, but we hope that the information that we designed to accompany it explains to people in more friendly language what they are signing.

We continually keep under review how we communicate with children and young people, because we are aware that a lot of them do not consume written information. That is a constant, on-going process for us.

Maurice Corry: I hear what you say, but you are not really answering the question. Can you show me a document in which that is physically written? Would it be written in a document for Mr Smith's son, Jim, who is a young player—yes or

no? Would it be clear that he has a right to a notice period or whatever?

Alyson Evans: There is a formal registration form that people sign, and I am very happy to share a copy of that form with the committee. For me, the important thing is the information that goes alongside that formal form, which explains in clearer and, I hope, more straightforward language what the terms that are used in that document mean.

Maurice Corry: So, it is clearly not physically written in the document.

Alyson Evans: Not in a way that I would deem to be accessible to children and young people. The accompanying information that goes with the formal form explains things to children and young people.

Maurice Corry: Are you happy with the fact that it is not written in the form?

Alyson Evans: I am not making any comment on that. I am saying that the important thing for me is that, regardless of whether that information is in the form or in the accompanying information, children and young people and their parents understand what they are signing, the registration process and—this is important—how to raise any issues or concerns that they have at the point at which they sign and throughout the entire time in which they are involved in Scottish football.

The Convener: I want to clarify something. You seem to be suggesting that there is really nothing to see here—that you do not know why the petitioners would think there is a problem with a three-year registration whereby all the power is with the club, as it can release a young person but that young person cannot go without the club's permission. I get that there is a lot of movement, but a fundamental issue that the committee has been looking at is that a young person under 16—a person aged 15—could be held at a club for three years under the current rules, whether or not they want to be. Is that acceptable?

Ian Maxwell: I do not think that anybody is saying for one minute that there is “nothing to see here”. That is absolutely not the case. I started by saying that we take on board the committee's concerns and that we are going to review the registration process.

The Convener: Fundamentally, will you be looking at getting rid of the three-year registration? From where we are sitting, it seems that, although not many young people are involved, they can be held at a club when they do not want to be in it any longer and are unable to play their football somewhere else, although the club can release or get rid of a player within the three years.

Ian Maxwell: I am not going to second-guess what the outcome of the review will be.

The Convener: That is a basic matter. Do you have a view—

Ian Maxwell: The conversations—

The Convener: I am sorry, but I want it to be clear whether your personal view is that it is acceptable that a young person can be held to a registration that they signed up to when they were 13, 14 or 15 years of age for three years when they do not want to be with that club any more. Fundamentally, should that be happening to a person, even if it happens to only one person?

Ian Maxwell: If a player does not want to be at the club any more, they can leave it. There are mechanisms by which that can happen—guidelines lay that out—and no one is saying that that is not the case.

The football landscape changes. That is the basis on which I have had conversations with clubs about the issue. Our current registration process has been in place for a considerable time. We have not, for a number of reasons, taken a step back and asked, “Is this registration process correct?” That is what we will review.

The Convener: The matter has been raised for 10 years, and—

Ian Maxwell: Yes, I accept that. I can talk only about what I am doing now.

The Convener: I appreciate that, and I and the committee very much appreciate your being here today and having very positive things to say.

You can mitigate the impact of the three-year registration process—you can say that a player can go anyway. The fundamental question is about why there is registration at all. Is that consistent with the very positive things that have been said about the rights and integrity of young people inside the system?

Ian Maxwell: That is exactly the question that we are asking.

The Convener: It seems to me that, if you can ask the question, you can probably also answer it. As I said, it is quite basic. Is the issue that it is not in your authority or grasp to make that decision? Is it something that clubs are holding on to but that the SFA is perhaps more concerned about?

Ian Maxwell: I do not think that the clubs are necessarily holding on to it. We are a members' organisation. As I said, I have had a conversation with most of the clubs involved in CAS, and they have all said, “We've never actually thought about it. You might be right. Let's review the process.”

There is a willingness to review it. I am not saying that because I want the matter to go away—that is absolutely not the case. This is a genuine attempt to take on board the concerns of the committee and the petitioners and to make sure that the regulations in Scottish football are fit for purpose.

The Convener: You have already recognised an imbalance of power in the registration scheme, and one of the fundamental things that you will be looking at is having simple fairness in the system.

Ian Maxwell: Yes.

Brian Whittle: There is also an imbalance of power between English and Scottish clubs, because the former can pay exorbitant fees for young talent. That suggests to me why there is resistance to changing the three-year registration process. I understand that resistance from a business perspective, but we are talking about child welfare. That aspect must come into play when clubs are looking at how the process might affect their bottom line. Is that fair?

Ian Maxwell: FIFA regulations govern the cross-border movement of players, so that is not in the gift of the Scottish FA. We concentrate on the domestic landscape, including what regulations we have in place.

A player moving from Scotland to any other country could be impacted by many things, including Brexit, for example. That is my point about how the football landscape changes. We do not know, from a player-movement perspective, what impact Brexit will have. However, those issues are covered by FIFA regulations and guidance. I am sure that people will be asking FIFA exactly the same questions as we are being asked about whether children's rights are fundamentally at the heart of the regulations and guidance, but that is not for us to comment on now.

Brian Whittle: I will explain the point that I was getting at. If there was no registration, that would allow English clubs to come in and swoop for players. If they were under a contract with a club, the club would get compensation when a player moved to another club. I get why there is resistance to changing that and why it is a difficult issue for the club to work around. As the convener said, if you took away the registration process, that would take away a potential revenue stream from Scottish clubs.

Ian Maxwell: It depends on what the registration process looks like. The point of the review is to understand whether an alternative registration process would address concerns but still protect clubs. The process is a vital part of a club's income, and clubs spend a huge amount of money on the development of players—not just as

players, but as people. It is right that there is a balance between those two elements. I take the point that FIFA regulations cover that, but the review must look at a registration mechanism that gives clubs some protection.

Brian Whittle: The petitioners have written:

“Under Scottish FA rules, football clubs can request compensation for a transfer of a child moving between professional football clubs, even though that child is non-professional. At previous meetings of the committee, it has been suggested that these rules are a requirement of FIFA. However, this is not the case”.

There seems to be a bit of confusion here. Can you explain why compensation payments are being made if that is not in keeping with FIFA—the world governing body—regulations?

Ian Maxwell: It is absolutely in keeping with the world governing body regulations. Article 1 of the FIFA “Regulations on the Status and Transfer of Players” talks about the domestic movement of players from club to club, and it is very clear that regulations should

“provide for a system to reward clubs investing in the training and education of young players.”

The Scottish domestic guidelines look at the reimbursement of training costs. I will give a bit of context around that. In the past two years, although 1,000 players have moved club in Scotland, the previous clubs of just 10 players have been reimbursed for training costs. Each year, reimbursement is taking place for only five players who move clubs out of the 2,000 players in club academy Scotland. Hundreds of players move between CAS clubs every year. If it was all about transfer fees and putting a price on players, there would be far more of it, but we do not see the evidence that that is the case.

Brian Whittle: Just for clarification, is the petitioners' assertion wrong?

Ian Maxwell: The petitioners' assertion is accurate with regard to cross-border transfers. The FIFA regulation that they quote, which is in annex 4, talks about the cross-border movement of players, whereas article 1 of the FIFA regulations talks about the domestic landscape. I have it here and I can read it to you, if you want. There is a requirement on us and we are mandated by FIFA to have a system in place that rewards

“investing in the training and education of young players.”

I can send the committee that information.

Brian Whittle: That would be helpful.

The other issue that the petitioners want to raise is the case of Billy Gilmour, who was the subject of an illegal deal between Rangers FC and Chelsea FC, which has been confirmed as a breach of

FIFA regulations. If FIFA rules have been breached, does that mean that national rules have also been breached? What did the Scottish FA do to intervene in that case? To what extent is the Gilmour case indicative of wider malpractice?

Ian Maxwell: FIFA governs such cross-border transactions—we play no part in them at all. We were not aware of the case until FIFA announced it.

Brian Whittle: I understand that. I am just trying to set out the landscape. Did that transfer not contravene SFA national guidelines? Did you have nothing to do with it?

Ian Maxwell: No.

Brian Whittle: Even though Billy Gilmour is a Scottish player.

Ian Maxwell: Correct.

The Convener: Could it have happened to a Scottish player if they had moved to another club in Scotland? Would it have been acceptable?

Ian Maxwell: Would it have been acceptable for a player movement to have breached regulations? No.

The Convener: So, the idea applies.

Ian Maxwell: The fundamental idea is that, when a player moves from club to club under the guidelines of the domestic national association—in this case, the Scottish FA—the regulations must not be breached. So, it applies. However, in the case in point, a player at a Scottish club transferred to an English club, and the governing body in that circumstance is FIFA, not the Scottish FA. It was a transfer between two national associations, so it came under FIFA's jurisdiction as opposed to ours.

10:00

The Convener: I understand that. I was asking whether a transfer of the kind that would be deemed to be a breach by FIFA but which was between clubs in Scotland would be deemed to be a breach by the SFA.

Ian Maxwell: It would. Yes.

The Convener: So, the same thing applies.

Ian Maxwell: There would be a breach of the regulations. I am not sure that I understand the point.

The Convener: Your suggestion was that the breach did not apply in Scotland in that particular case because it involved someone moving from Scotland to England. If the young person had not gone south of the border but had gone elsewhere in Scotland, would that still have been a breach of your regulations?

Ian Maxwell: Yes.

The Convener: So, there is no difference. The problem is unacceptable whether it happens in Scotland or between Scotland and England.

Ian Maxwell: I am struggling to see your point. If there is a breach of regulations at any level of Scottish football, that is a breach. I do not think that the breach that happened in the Billy Gilmour case could happen under domestic regulations, because we do not have the same regulations. Those regulations cover cross-border transfers. However, if there was a breach of transfer regulations, we would obviously be involved in the case.

The Convener: I am trying to clarify whether, if the thing that has happened is deemed to be a bad thing, it is deemed to be a bad thing if it happens inside Scotland.

Ian Maxwell: It is.

The Convener: So, your regulations are consistent with the FIFA regulations.

Ian Maxwell: Yes.

David Torrance (Kirkcaldy) (SNP): The petitioners have highlighted that, once the United Nations Convention on the Rights of the Child becomes part of Scots law, multi-year registrations and compensation payments for children will be unlawful. Of course, they say that the system currently already breaches international and domestic law. How do you respond to those claims?

Ian Maxwell: Whatever regulation changes result from the review, the regulations will adhere to the relevant law. That just makes sense. Why would we do something that contravened that? We have no problem in making sure that the regulations comply with the relevant legislation.

David Torrance: Why have you not already done that? The petitioners say that you have already breached the UNCRC. Why have you not put in place the relevant regulations?

Ian Maxwell: Our position is that we would not have regulations in place that breached any law. That will be checked as part of the review of the registration process.

David Torrance: The committee has seen evidence that some young players have not been receiving the minimum wage. Earlier, you said that anyone in that position can contact you. Has anyone done that?

Ian Maxwell: No.

David Torrance: Do you find that surprising? How often do you promote that message through your clubs?

Ian Maxwell: I am not passing the buck, but the minimum wage is an SPFL requirement, because the body that governs the clubs' contracts of employment is the SPFL.

I think that the message has been well promoted because of the revelations in the newspapers however many years ago. I think that those have kept the issue at the forefront of people's minds. People are aware of minimum wage legislation—it is a fairly well-worn topic, and players will be aware that what they are offered has to meet those requirements.

We are not aware of anyone who is not getting the minimum wage. Nobody has come to us and said that they are not. Anybody who is not getting it should come to us and say so.

As I said, from my experience, I know how hard clubs work to comply with all their obligations. As far as I know, that is the case. I have no evidence to suggest otherwise.

David Torrance: As the governing body for Scottish football, does the SFA check with the clubs that they are paying the minimum wage?

Ian Maxwell: The clubs self-certify through the SPFL regulations. As I said at the outset, our primary function concerns player registrations. We check whether a registration is valid against FIFA regulations. We are not necessarily concerned with the terms of the contracts of employment between the players and their employers.

David Torrance: As a governing body, should you be concerned?

Ian Maxwell: That is not our function. We are the regulatory body for the rules of football. The minimum wage is an employment matter. There is an employee-employer relationship that sits separately from the rules of football. We do not govern the contractual element; we govern the rules and regulations of football.

Contracts between players and clubs can be extremely complicated—at a higher level, they can be less than straightforward. We ask clubs to confirm that they are complying with their legal obligations as employers. If anyone is in a situation in which that is not happening, they have to let the SFA or the SPFL know.

David Torrance: If you are asking them to confirm that that is happening, why do you not check whether it is?

Ian Maxwell: Because it is a—

David Torrance: Surely, as the governing body, you have a responsibility to protect the welfare of the young people. Therefore, why do you not check whether the clubs are complying with their legal obligations?

Ian Maxwell: Because the situation with regard to young people and their welfare is different. Young people are on registrations, not contracts. They do not get paid.

When someone gets to 16, 17 or 18 years old and they are legally able to work, their employer has to comply with the law of the land. It is the law of the land that deals with employee issues. The SFA is a football regulatory governing body. We govern the regulations of the game and have a wider remit for participation, development and that side of things. We do not get involved in the relationship between an employee and his employer.

David Torrance: Should you, though?

Ian Maxwell: That is not what we are here for.

The Convener: There is a pretty fundamental issue here. You are saying that you can conceive of circumstances in which you were aware of clubs not paying young people the minimum wage but that it would not be your job to do anything about that.

Ian Maxwell: Those clubs would be breaking the law.

The Convener: What consequences would you, as the regulatory body, impose on an organisation that was breaking the law?

Ian Maxwell: The club would be in breach of the SPFL regulations on minimum-wage compliance, and the SPFL would deal with that. We have sanctions that can be put in place if a club is found to be in breach of regulations.

The Convener: We heard evidence about situations in which work was being done to confirm a contract, and the contract involved a payment that was less than the minimum wage. We were told, "That's not our job." You seem to be suggesting that it is the job of the young person to do something about that, even though, as we have already agreed, we are talking about a circumstance in which young people who are in pursuit of a goal will almost allow themselves to be exploited. Do you not have a duty of care for them?

Ian Maxwell: The employer has a duty of care for the young person. I am going to sound like a broken record, but there is a difference between football governance and regulation and employment law. The fundamental point here is that any company in the country is under a legal obligation to comply with minimum wage legislation. Every day, thousands of employment contracts are signed without anyone checking whether they are compliant with the minimum wage legislation. That is the world in which we live. Nobody checks every employment contract

that is ever signed to ensure that it complies with minimum wage legislation.

There is a fundamental difference between football regulations and governance, which the SFA is concerned with, and the employment contract between a club and a player. The players are not young. They are 16 or 17, which means that they are of a legal age—

The Convener: From where I am sitting, they are young.

Ian Maxwell: They are of a legal age to be employed, and that relationship is between them and their employer. If there is any breach of pay-as-you-earn obligations or other statutory obligations, the employer is breaking the law, and we do not get involved in that. The issue is between the club and the player.

As I said, the SPFL asks clubs to self-certify that they are minimum-wage compliant. The area has been focused on to a great degree, and neither we nor the SPFL are aware of any players receiving less than the minimum wage. I can only say that, if anyone is aware of that happening, they should let us know, and we will deal with the club. At the point of signing the contract, we do not check whether that is the case.

The Convener: I can only say that there are a lot of exploitative employers kicking about and I have never been aware of any asking someone to sign a contract for £1 a week, or of a situation in which nobody in the system says that the issue should go beyond the young person making a complaint.

Ian Maxwell: That contract for £1 a week was highlighted and has been addressed.

As I said, the club that I was involved with was subject to an audit, to ensure that we were minimum-wage compliant, and I think that all of the premier league clubs at that period went through the same audit process.

The Convener: Do you think that it is damaging to football and the work that has been done by the SFA and clubs that there are people who are willing to exploit young people and not guarantee that they get paid the minimum wage?

Ian Maxwell: With respect, who are those people?

The Convener: Do you think that it is damaging to the reputation of Scottish football?

Ian Maxwell: It would be damaging to the reputation of Scottish football if it was the case. Who is paying less than the minimum wage? If someone points them out, we will deal with them. We have heard a lot about players being paid £1 a week, but we are not aware of any players being paid £1 a week or less than minimum wage.

The Convener: We had evidence in front of us of a contract—

Ian Maxwell: Yes, historical evidence, but that has been addressed.

The Convener: Historically, things do not change. They might be different, but the question I am asking is, what protections are there? That was a particular incident, and I think that it took everybody by surprise, but people tried to justify it on the basis that it was very complicated to work out whether a young person was actually playing or travelling and all the rest of it. Would it not be in the interests of the reputation of Scottish football and the SFA to say that you see it as part of your job to check what contracts have been signed? We have heard positive messages about how you do not want young people to be exploited, so to say that it is for the young person to complain flies in the face of all the evidence that the power relationship does not really allow for that.

Ian Maxwell: I do not agree. I do not want to say it again, but there is a fundamental difference between this and contracts of employment. Any employer in the country breaks the law if they do not fulfil all their obligations as an employer regarding holiday pay, the amount of holiday time, sick pay and so on. Employers have to meet a number of obligations. If they are not met, that is a matter for the employer and the employee to deal with.

The SPFL has regulations on minimum wage compliance that it asks clubs to sign off.

The Convener: You have ultimate responsibility for the control and development of football in Scotland. Surely, that must be part of your role. I am trying to think of any other regulatory body that might be aware of breaches of pretty basic regulations that are damaging to the reputation of its organisation. If something was damaging the reputation of your organisation and of football, given your responsibility for the control and development of football, would you not see it as part of your job to address it?

Ian Maxwell: If there was evidence of such breaches, it would be damaging to Scottish football—there is no doubt about that—but there is no evidence of such breaches. There was historical evidence, but that has been addressed. There is no current evidence that any club in Scotland is paying less than the minimum wage.

The Convener: Have you checked?

Ian Maxwell: The clubs all self-certify.

The Convener: You have not checked, so you do not know whether there is evidence.

Ian Maxwell: Listen, I have been through that. We do not check the terms of contracts. We check

that the registration is valid and that the contract was dated at the same time as the registration.

The Convener: Therefore, although you accept that the practice would be damaging to the reputation of Scottish football if it was going on, you have not done anything to check whether it is continuing.

Ian Maxwell: It is not within our jurisdiction to check that.

Maurice Corry: This question is probably more for Mrs Evans, and it is about the right balance being struck between clubs and the welfare of children and young people. You talked earlier about what the clubs and the SPFL cover. The SPFL obviously covers the premier league, but there are other clubs beneath that, and young people will transfer to them, so I am concerned about that. How should youth football in Scotland be regulated? Should it be self-regulated or should external regulation be brought in to solve the problems that we have talked about? There has been much discussion of that during discussions on the petition, so Mrs Evans might like to address that.

Alyson Evans: The committee has been considering the question of self-regulation versus external regulation for a number of years. We have outlined our absolute commitment to the wellbeing and protection of children in the game. We have made progress and will continue to make progress on that in the coming years. If the committee would like more information about that, or if members want to come and visit academies to see for themselves, you are welcome to do so. We would be happy to facilitate that.

Maurice Corry: Are you happy that the system is working?

Alyson Evans: We have made an awful lot of progress on child wellbeing and protection and are continuing to make big strides in that from where football was previously.

Maurice Corry: So, can change be effected through the current system?

Alyson Evans: Yes. As we have said, the matter is an absolute priority for us and we will continue to work on it. We have our five-year strategy, but we are clear that we will continue to build on it thereafter.

10:15

Maurice Corry: Mr Maxwell said that the SFA does not check, so I get the sense that it does not know who is doing what in relation to the minimum wage of £1, to which the convener referred. There seems to be a block—it seems that it is rather left to the market to decide. That is a concern for us.

Alyson Evans: We look at child wellbeing and protection standards through our annual member-club licensing audits. A club cannot be a member club of the Scottish FA without meeting the minimum standards that we have set out, and we incrementally build on the standards year on year. In relation to the non-professional side of the game, we do specific annual wellbeing and protection audits based on the minimum standards, and we consider how we can build on them.

Maurice Corry: Based on your professional experience, are there any changes that you would like to implement in your work on wellbeing? Are there any blue-sky objectives? Is there something that you would love to do but which you feel you cannot do because of SFA or SPFL regulations?

Alyson Evans: We are working to bring in lots of changes. We have not been prevented from making any proposals because of Scottish FA regulations, and I do not foresee that happening in the future. Our work is in relation to the culture that we have within the game and is about building on that.

Brian Whittle: One of the things that has struck me throughout is the complicated landscape of the football family. The big regulatory bodies include the SFA and the SPFL, and there is schools football and women's football. Is the relationship between the bodies a bit of a barrier to getting to where you want to get to? It seems to be a bit of a disjointed relationship—if we follow a kid from the start, right the way through their journey, they could go through several governing bodies. How is that relationship?

Ian Maxwell: I do not see the relationships as being an issue. Fundamentally, we have the Scottish Football Association and we have affiliated national associations, including the Scottish Youth Football Association and the Scottish Amateur Football Association. They are constituent parts of the game, but we govern them and have relationships with them.

For example, previously there was an issue with the SYFA's practice in relation to coaching qualifications and the PVG check. That issue has been addressed: between us, we have worked to get to a place that is right for Scottish football. We have on-going dialogue and the affiliated national associations are part of our non-professional game board. We meet regularly during the year to discuss any issues, whether it is an SYFA issue, an amateur football issue or a Scottish Women's Football issue.

The demarcation lines are fairly distinct. The SPFL is a competition organiser. It runs the competition in the top four divisions in Scotland; that is its responsibility. The Scottish FA is

responsible for promoting, fostering and developing Scottish football as a whole. From the minute a person can kick a ball to the point at which they cannot kick a ball any more, and everything in between, we want to affect that and to deal with and engage with the person, which is what we do through the affiliated national associations.

I do not think that the governance relationship is complicated; it is fairly straightforward. All the constituent parts understand their roles and we are aware of what those roles are. Historically, it was a challenge because the situation was a bit disjointed, but that is not the case at the minute. We have regular meetings with the constituent parts of the game to make sure that we are all on the same page in relation to areas such as child wellbeing. Our child wellbeing strategy covers the affiliated national associations, including the SYFA. They all fall under that strategy. I do not see the relationships as being too complicated.

The Convener: I appreciate the amount of time that you have given us, but I have a final few questions before we finish.

I would like to clarify a point about breaches of employment law. It does not matter that not terribly many young people have been exploited. If it comes to your attention that clubs have contracts that do not pay the minimum wage, what sanctions can you apply?

Ian Maxwell: The matter would go to the SPFL. I am not sure of the detail, but there are sanctions available. I can find that out.

The Convener: That would be helpful. Are you saying that the SFA would not have a role, even if young people came forward and there was a breach? Given the SFA's reputation and your role in developing football, would you not have a role in dealing with that?

Ian Maxwell: Young people could come forward to us, and we would pass that information to the SPFL.

The Convener: Is it the case that if young people come forward to whomever to complain, and it is established that a breach is happening, possibly as a matter of routine, and that is reported to you, you cannot apply sanctions to a club?

Ian Maxwell: There is an overarching article about bringing the game into disrepute that would be breached, but the matter would go to the SPFL for it to consider sanctions for the offence.

The Convener: So, a club would have breached its self-certification if it was doing that because it would have signed up to say that it was doing all the right things.

Ian Maxwell: Yes—it is SPFL self-certification.

The Convener: But the club would have breached SFA regulations by breaking the law.

Ian Maxwell: It would have broken the law by breaking the law.

The Convener: In terms of your role, if it had been established that the club had broken the law, would not that affect its relationship with you?

Ian Maxwell: Obviously, we would take an interest in a club's having broken the law. What that would look like, I am not entirely sure.

The Convener: So, what happens when clubs break the law is not written down.

Ian Maxwell: It is written down; I just do not know that detail off the top of my head.

The Convener: It would be useful to know that.

I have two final questions. The Children and Young People's Commissioner Scotland has written to the Scottish Government to ask whether it believes that self-regulation is protecting children's rights effectively or whether statutory measures are required. What is your response to that?

Ian Maxwell: That is a decision for the Scottish Government to take.

The Convener: If the Scottish Government came to you and said that it is hearing that self-regulation is not working, what reassurances could you give it so that it did not have to look at introducing statutory measures?

Ian Maxwell: We could give it reassurances about the measures that we have in place that we have discussed this morning, and about our focus on children's wellbeing and protection throughout Scottish football.

The Convener: To summarise, you are alive to the issues about compensation and registration.

Ian Maxwell: Yes.

The Convener: I asked about this already, but it would be helpful for our consideration and our report. You said that you did not think that the working group's work would take very long. Can you give us even a guesstimate of when it will report?

Ian Maxwell: Can I give that some thought and come back to you on it?

The Convener: That would be extremely helpful.

Ian Maxwell: No problem.

The Convener: As you will appreciate, there are folk who are saying that the situation is just being played out and that it is running on because

people are not taking it seriously. It would be really helpful if we knew when the report will come.

You talked about having a meeting with the commissioner. What do you see as being the main focus of that meeting?

Ian Maxwell: I made the initial request off the back of the session that the commissioner had with the committee. The purpose of the meeting is to discuss each other's concerns and to open that dialogue. I have not met him or had any chance to discuss the issue with him.

The Convener: Obviously, the writing into law of the United Nations Convention on the Rights of the Child will have an impact, so that will be part of the discussion.

Ian Maxwell: Absolutely.

The Convener: Do you see a role for the petitioners in those conversations?

Ian Maxwell: I see a role for a number of stakeholders in the conversations, but we need to work through the detail, so I will get back to you on that.

The Convener: That would be very helpful. Obviously, we would also find helpful a report from the meeting with the commissioner.

We need to reflect on the evidence. We will work in private on a revised draft of our report. A lot of that work is already done, but we want to clarify the role of the commissioner and so on. We also want to get an update from the commissioner on his correspondence with the Scottish Government.

Do members think that there is anything else that we should do?

Brian Whittle: This morning's evidence has been really helpful. A number of things come to mind. One is—I have to say this out loud—that the Children and Young People's Commissioner has not covered himself in glory throughout this and must consider what role he should be playing.

We have talked a lot about employment law. It is HM Revenue and Customs' role to audit the books. We have not really gone into that.

It would be interesting to see the list of people in the organisation who will be required to do PVG checks from now on—that is really important. The Disclosure (Scotland) Bill has passed stage 1, and our report will influence that bill, so we should try and get the report out before its next stage.

There is a lot at play here. We have not really dug deep into employment law or the role of HMRC.

The Convener: I suppose that the SFA will have made a submission on the Disclosure

(Scotland) Bill. It will be important for us to reinforce to the Education and Skills Committee that we have had this conversation and that we think that these are important issues.

We want to include in our report the issues of registration, compensation, the commodification of young people, and the rights of young people beyond their ability to complain. We would be looking to the SFA to recognise its role in children's wellbeing. If it has a report coming out, that would be really helpful to us.

I thank the witnesses for their attendance. We have run over time slightly, but you will appreciate that there are big issues, here. You have made commitments to come back to us on a number of things, and we look forward to hearing from you. If there is anything else that you would like to clarify or confirm, we would find that very helpful for our considerations.

Ian Maxwell: No problem. Thank you.

The Convener: I suspend the meeting to allow the witnesses to leave the table.

10:27

Meeting suspended.

10:36

On resuming—

Speed Awareness Courses (PE1600)

The Convener: PE1600 is on speed awareness courses. The petition was previously considered by the committee at its meeting on 10 October 2019. At that meeting, the committee took evidence from Chief Superintendent Garry McEwan, who represented a multi-agency working group that was convened to devise the necessary infrastructure and guidance to support the introduction of speed awareness courses.

The committee subsequently wrote to the Scottish Government for an update on the introduction of speed awareness courses, including the financial implications. The Scottish Government has reaffirmed its commitment to the introduction of speed awareness courses and highlighted that a course content and funding sub-group has been established to consider possible costs appropriately and that it will consider the funding exercise completed by Police Scotland.

Do members have any comments or suggestions for action?

Gail Ross: The petitioner should be very proud of his work because it has resulted in a sub-group and has taken the issue to the highest level. I am content that the Government is—rightly—now

seriously considering the matter. That is a really important step. Given the feedback from the Government and the creation of the sub-group, which is looking at course content—that says to me that it is serious about the matter—we have probably taken the petition as far as we can. The petitioner has done great work.

The Convener: I suppose that our frustration has always been that something that seems quite straightforward has taken such a long time. However, I agree with Gail Ross that it is clear that there has been progress. The petitioner has the opportunity to monitor that progress and, if there is no further progress in a year's time, he could, of course, lodge another petition, although we would be very disappointed if that were the case.

We recognise that there has been movement on something that should make a practical difference, and I think that we agree to close the petition under rule 15.7 of the standing orders on the basis that all relevant organisations are committed to the introduction of speed awareness courses, pending operational and financial assessments by the various working groups. We hope that they will be done at pace rather than be left to lie.

We thank the petitioner for his engagement with the committee, and we recognise the progress that has been made. Is that agreed?

Members indicated agreement.

Glue Traps (PE1671)

The Convener: PE1671 is on the sale and use of glue traps. The petition, which was lodged by Lisa Harvey and Andrea Goddard on behalf of Let's Get MAD for Wildlife, calls on the Scottish Government to ban the sale and use of glue traps and boards in Scotland.

The petition was previously considered in June 2019, when the committee took evidence from the Pest Management Alliance. Since that meeting, the alliance has provided the committee with a draft copy of its revised code of practice. Although I am sure that members are grateful for sight of the draft code of practice and appreciate the alliance's willingness to engage with the committee, we do not have the technical expertise to know what the impact of the proposed changes will be and are therefore limited in what comment we can make on either the changes or any possible alternatives. The petitioners have provided a submission that details their views on the draft code of practice. That submission is summarised in our meeting papers.

Do members have any comments or suggestions for action?

I was quite struck by the helpful table that the petitioners provided on the changes in the code of

practice, some of which we could see are, from the petitioners' perspective, negative changes. The obvious negative change is the first one. The petitioners say:

"The authors have removed the statement that 'All other options for rodent control must be carefully considered before rodent glue boards are used'".

I thought that that was a positive thing to put in.

There are quite a lot of issues. Do members have comments on what we might do?

Gail Ross: I have complete sympathy with the petition from an animal welfare point of view. We would think that there would be nothing but positive changes if the code of practice was going to be updated. It is disappointing to hear from the petitioners that some of the changes are essentially backward steps.

The petitioners say in the submission of 9 January:

"we would like to reiterate our recommendation for the Scottish Government to adopt either a complete ban on the sale and use of glue traps"

or to have

"licensing of pest control operators and/or licensing the glue traps uses".

That is a perfectly reasonable thing to ask for.

I have my personal opinions on the matter, which are not relevant here. On the action that the committee should take, we definitely need to write to the Scottish Government to find out what its position is and for it to respond to the petitioners' recent submission, because I am quite concerned about what the petitioners have to say.

Brian Whittle: I looked back to see what the Cabinet Secretary for Environment, Climate Change and Land Reform said when we took evidence from her. She said:

"the preferred option would be to allow the continued use of glue traps but by professional pest controllers only, which would mean their adhering to a code of practice.— [Official Report, Public Petitions Committee, 26 April 2018; c 17.]

Like Gail Ross, I would like to understand why the negative changes were brought in. There was an opportunity to reach a point at which everybody is much closer to an agreement. Perhaps we could write about the negative changes. We should definitely write to the Government for an update on the current position, given the new set of rules that has come out.

The Convener: I wonder whether it would be worth writing to the Pest Management Alliance to say that we recognise that it has engaged and tried to update its guidance but also to ask what the thinking was on the identification of issues.

Do members agree that we should write to the Scottish Government to ask for an update and to ask it to respond to the concerns that the petitioners have outlined, and that we should write to the Pest Management Alliance?

Members indicated agreement.

Cat Population (Management) (PE1674)

The Convener: PE1674 is on managing the cat population in Scotland. The petition, which was lodged by Ellie Stirling, calls on the Scottish Parliament to urge the Scottish Government to review the code of practice under the Wildlife and Natural Environment (Scotland) Act 2011 and to identify measures that could be introduced to control the soaring domestic cat population and protect the existence of the Scottish wildcat.

The petition was previously considered on 21 November 2019. At that meeting, the committee took evidence from the Cabinet Secretary for Environment, Climate Change and Land Reform and agreed to reflect on the evidence heard at a future meeting. We have received further submissions from the petitioner and others.

Do members have any comments or suggestions for action? [*Interruption.*]

Brian Whittle: I am waiting for the cat lady.

Gail Ross: I am sorry for coughing, but I have something stuck in my throat. On you go.

10:45

Brian Whittle: Is it a fur ball?

I am pleased to note that the Government is taking positive and significant action to keep stable populations of the Scottish wildcat going. The petitioner has raised significant issues that I was unaware of—every day is a school day in Parliament—and, to her credit, she has had a positive response from the Government. I am not quite sure what else the Public Petitions Committee can do, but I recognise the significant movement that the petition has delivered

Gail Ross: The petitioner, who is hugely passionate about the issue, has done such a lot of work and is to be commended for that. I get everything that she is saying. However, as Brian Whittle said, as the Public Petitions Committee, we have had evidence from the cabinet secretary that the Government will not move or introduce a legislative measure. We also heard about Scottish Wildcat Action's on-going work—indeed, there have since been announcements about its release and breeding programme.

Although I completely sympathise with the petitioner's intentions, unfortunately, the

committee is probably unable to progress the petition.

Maurice Corry: I agree. The issue comes down to empirical evidence and convincing the Government of the need to take further action.

I am concerned about the petitioner's comments that the cat population could grow by 4 million cats a year, but we have to base decisions on the empirical evidence. The Government is monitoring the situation. We should move on, and I propose that we close the petition.

The Convener: I think that it would be fair to say that the evidence that we heard from the Government is that it is aware of the issues and that work is on-going. If we close the petition, and the petitioner considers that there has been no progress, or the Government's work is counter-productive, she could bring back a petition in a year's time.

The Scottish Government recognises the issues in the petition but is fixed on what it is doing at the moment. My sense is that we want to close the petition on that basis. However, in doing that, would it be worth our simply flagging up to the Environment, Climate Change and Land Reform Committee that there is a body of work on which it might want to draw, if it is an issue that it looks at? We could pass on all work that has been done and the submissions that have been provided to us. We would not say that the ECCLR Committee should deal with the petition but that that body of work might inform its work at a later stage. Do we agree to that approach?

Members indicated agreement.

The Convener: We thank the petitioner for all their work and recognise the importance of the issue that has been highlighted.

Additional Support Needs Schools (PE1709)

The Convener: PE1709, which was lodged by Claire Mooney, calls on the Scottish Parliament to urge the Scottish Government to install closed-circuit television cameras and establish full-time social work presence in all additional support needs schools in Scotland. The petition was last considered on 20 June 2019, when we discussed concerns raised in written evidence in relation to the action called for in the petition. That includes possible infringements of human rights relating to privacy and implications relating to the general data protection regulation. Since that meeting, submissions have been received from the Convention of Scottish Local Authorities and the petitioner. In its submission, COSLA notes a number of initial concerns about the proposal for

CCTV cameras, either fixed or mounted, including body cameras.

Do members have any comments or suggestions for action?

Maurice Corry: A couple of weeks ago, I put a question to the Cabinet Secretary for Education and Skills to which he responded that, as it happened, just a few days before we were speaking in the chamber, he had prepared a report on this very subject. His response satisfied me that the matter has been taken into hand. We just need to see what the outcome is once measures are implemented. The Government has moved to do something about the issue, so I propose that we close the petition.

Brian Whittle: I was struck by what Unison said about it being important that, rather than having CCTV, there should be

“investment in staff who can identify pupils’ additional support needs.”

That is a compelling statement, as is Unison’s comment that

“Funding is required for staff training and ongoing professional development.”

If I had to invest in one or the other, I would definitely—

Maurice Corry: If I can intervene on that point, I note that that was part of my question to the cabinet secretary, and part of it was addressed by him.

Brian Whittle: The petitioner has made us and the Government consider the issue. She might not have the answer that she was looking for, but she should be commended for getting the committee and the Government to recognise the issue and take action. If I had to invest in one or the other, I would invest in staff training and development. The Unison submission was the one that struck me the most.

Gail Ross: The other evidence that we have received and what the cabinet secretary said to the committee about restraint and seclusion were compelling. We have the commitment from the Government that guidance on that will be updated, for which there is a timescale. That feeds into this petition, as does what Maurice Corry said about the commitment that he received in the chamber in response to his question.

The Convener: It fits in with the petition on restraint. It is important, because it is an issue to do with how young people are being treated. What is good practice? I am not sure that a social worker is always the best person to have involved, but we would certainly want there to be sufficient qualified staff. The submissions from the unions show that there is an issue to do with whether

schools have the level of support staff that they require. The Education and Skills Committee is alive to the issue of whether young people with additional support needs are properly supported and kept safe, and it has looked at that in some detail. It is an issue that people are aware of and it is not something that will disappear.

PE1548 on restraint has already gone to the Education and Skills Committee. If we agree to close PE1709, perhaps we could simply follow up on that and say to the committee that there is further evidence that people are clearly concerned about this area, and that concern is being expressed in different ways. We could say that, although we do not necessarily agree with the solution that is called for in the petition and there might be no support for CCTV, there is no doubt that what prompted the petition is very serious, and that we hope that the Education and Skills Committee will reflect on that. Is that agreed?

Members indicated agreement.

The Convener: We agree to close PE1709. We thank the petitioner for the work that she has done to bring the issue to the attention of the committee. We will ensure that the Education and Skills Committee is informed of that work.

New Petitions

Private Criminal Prosecutions (Legal Aid) (PE1766)

10:53

The Convener: The next item is the consideration of a number of new petitions.

The first new petition for consideration today is PE766, on legal aid for private criminal prosecutions for unwaged and/or learning-disabled victims of abuse. It was lodged by Andrew Buchan and calls on the Scottish Parliament to urge the Scottish Government to change the law to provide free legal aid to people who are unwaged and/or learning-disabled victims of abuse who wish to bring a private criminal prosecution. Our briefing explains the background to legal aid, including financial eligibility and public and private prosecutions.

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

Do members have any comments or suggestions for action?

Gail Ross: At this early stage, we need to write to the Scottish Government to get its views on the petition and how it relates to the whole legal system. From dealing with legal aid for constituents, I know that the system can be complicated. An overview of the current situation would inform our thinking.

The Convener: The petition says that there should be legal aid where crimes have been committed, but the test for legal aid is the likelihood of securing a prosecution. That begs the question whether, with a private prosecution, that distinction would be made if a case was not deemed to be prosecutable.

There are interesting issues. There are more general issues about access to justice and the limited role for private prosecutions. It would be interesting to know the Scottish Government's view on that. The petition was prompted by the issue of access to legal aid, but there may be a broader question about private prosecutions in general and a feeling that the prosecution service does not recognise sufficiently when a crime has been committed. People are often disappointed that their case has not been pursued.

As members do not have any other suggestions, writing to the Scottish Government is probably reasonable to start with. Are we agreed to do that?

Members indicated agreement.

Children's Hearings (Record of Proceedings) (PE1768)

The Convener: The second new petition for consideration is PE1768, by James Mackie, which calls on the Scottish Parliament to urge the Scottish Government to ensure that all proceedings in children's hearings are minuted or recorded.

Our briefing provides background on the children's hearings system and the legislative framework under which it operates. The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 provide for how children's hearings are run in more detail and set out duties for the chair of the panel and the reporter. Rule 6(1)(c) states that the chair must

"ensure that a record is made of ... the decisions or determinations made by the children's hearing or pre-hearing panel, as the case may be; and ... the reasons for those decisions or determinations".

The chair must also

"sign and date the record of the decisions or determinations."

Rule 13 sets out the record-keeping duties of the reporter at a hearing, which relate to the location, time and date of the hearing, details of the child and any other attendees and details of the decision and any directions made.

Do members have any comments or suggestions for action?

Gail Ross: This is another new petition that raises lots of questions so, again, we should write to the Government in the first instance. Obviously, there are reasons why the system is set up in the way that it is, so it would be good to get feedback on that from the Government.

Brian Whittle: It is interesting that neither children nor parents are involved in the discussions. I have limited knowledge of these matters but, on the face of it, I would certainly like to understand that a little better. I would like us to write to the Children's Hearings Improvement Partnership on that particular point to ask why parents and children are not involved in the discussions.

The Convener: Parents and children are involved in the panel discussions. From my experience of the hearings system, one of its strengths is the opportunity for a frank and open conversation about the issues that a young person faces. My instinct is that we would want to explore whether recording everything that is said would inhibit the conversation. The Education and Skills Committee recently carried out a review of the hearings system that looked at its strengths as

well as at issues such as whether it is appropriately funded. I am sure that members can access the report of that.

11:00

My concern—which has been flagged up before—is that, already, the scale of legal representation at a hearing is far greater than it ever was in the past and the process is more formal than it was back in the day, when I attended hearings. However, the core strength of the process remains the ability to enable a conversation to take place with the young person, their family and other relevant people about what is happening and how they can be supported. It would be worth asking for the views of the Government and CHIP on that. We need to satisfy ourselves with regard to the question whether we are unnecessarily formalising something that has huge strengths in terms of the welfare of the young person.

Brian Whittle: I agree. I was suggesting that I would like to formally hear why parents and children are not involved in those discussions. I am quite sure that there will be legitimate reasons that are similar to those you have just mentioned, but it is not my area of expertise.

The Convener: Do we agree to write in those terms to the Scottish Government and CHIP?

Members indicated agreement.

Higher Education (PE1769)

The Convener: The next new petition is PE1769, by Marie Oldfield, calling on the Scottish Parliament to urge the Scottish Government to review the way higher education in Scotland is set up and delivered, including how students' rights are enforced and whether there is scope to allocate more power to the Scottish Public Services Ombudsman.

Our briefing explains the background to, and organisation of, quality standards in teaching and the various Scottish Government initiatives in this area.

Do members have any comments or suggestions for action?

Brian Whittle: The Education and Skills Committee has done a reasonable amount of work on the matter. Obviously, we will take the petition forward, but I think that it will end up in another committee. We should write to the Scottish Government seeking its views on the action that is called for in the petition, and I am sure that we could seek the views of a variety of stakeholders, but I come back to the point that the petition will ultimately move on to another committee to deal with.

The Convener: The question is whether we should accept that. The issue is a fundamental one about standards in higher education and how those are quality-assured and so on. There are issues about access and so on, but the petition is very much about enforcing the rights of students and maintaining the quality of the education that is delivered—people are being taught in bigger classes, getting less time in seminars and so on.

It is clearly a big issue, and the question for us is whether, rather than us, it should be the Education and Skills Committee that considers the petition, in the context of the work that it is doing around standards. Of course, the Scottish Parliament has debated some of those issues already.

Gail Ross: I agree that the Education and Skills Committee should consider the petition.

Maurice Corry: I am concerned about learning support at that level—the issue was highlighted to me when I was reading the committee papers. I would like that issue to be added to what we say with regard to quality assurance.

The Convener: There is certainly an issue around access and student support. It has certainly been said to me that student support, in terms of how people are coping, is less visible in higher education than it is in further education, and that that might have an impact on drop-out rates and so on.

We could, as a starter for 10, write to the Scottish Government and stakeholders and then, once we have got those responses, we could send the petition to the Education and Skills Committee with the suggestion that it take forward that first wee bit of work that we have done.

Maurice Corry: I entirely support that. It is important that we do that work first, so that we can highlight some of the points that might be raised.

Brian Whittle: What the petition calls for is quite open ended with regard to the idea of public confidence in the quality of the student experience. If you came to me, I would go down a certain route in that regard, but I am sure that others would go down a different route. That said, I think that you are right to suggest that we should make those initial inquiries and then decide whether we should send the petition to the Education and Skills Committee—I am pretty sure that that is where it will end up.

The Convener: Certainly, the Education and Skills Committee has looked at this issue and there were some representations to us about the impact of the teaching excellence and student outcomes framework, which is led by the Office for Students in England. That is connected to the capacity to charge tuition fees, which is not a

regime that operates in Scotland. However, the question then is, what is happening in higher education in Scotland? Does the amount of money that is invested by the Scottish Government match the level of tuition that young people need? That may be taking things in a slightly different direction.

I suggest that we write to stakeholders to get a response, but note that we remain very alive to the fact that these are huge issues and, in the longer term, the whole matter may be more properly dealt with by the Education and Skills Committee. Do members agree to take that approach?

Members *indicated agreement.*

School Curriculum (Sex and Relationships Education) (PE1772)

The Convener: Our next new petition is petition PE1772, which has been lodged by Pamela Suarez, calling on the Scottish Parliament to urge the Scottish Government to ban lesbian, gay, bisexual and transgender teaching and sexual pictures from the curriculum of secondary and primary schools.

The petition argues that the presence of LGBT teaching and sexual pictures in the curriculum of secondary and primary schools

“due to its cultivation of a new ideology of gender is dangerous in education and formation to girls and boys.”

The petition also states that

“the government is going against the moral value taught in the child’s home by violating human and parental rights.”

Our briefing states that the Scottish Government announced in November 2018 that Scotland would be the first country in the world to have lesbian, gay, bisexual, transgender and intersex inclusive education embedded in the curriculum. The Government accepted in full the recommendations of the LGBTI-inclusive education working group. Those 33 recommendations, which cover the professional learning of teachers, practice and guidance, school inspections and anti-bullying, are to be delivered before the end of the current parliamentary term in March 2021.

Do members have any comments or suggestions for action?

Gail Ross: Yes—I have several. There are various aspects of the petition that are simply incorrect. There is no promotion of homosexuality in our schools. It is a learning system that allows young people to see themselves being reflected in the education that they get. We know that the work that Time for Inclusive Education has done has been very successful in bringing about a change that helps children in their learning and attainment. It builds their confidence and they do not feel that

they are alone. The committee briefing mentions the Equalities and Human Rights Committee’s report on bullying. I was on that committee when we worked on that report and some of the evidence from young people about prejudice-based bullying was very distressing.

Any attempt to roll back those rights and education standards would be a massive step backwards. It is 20 years since we repealed section 28. There is cross-party agreement on continuation of LGBTI-inclusive education in schools—and rightly so. I strongly suggest that we close the petition because there is no appetite for what the petitioner is calling for.

David Torrance: I agree with Gail Ross. The Scottish Government and the Scottish Parliament should be really proud of their equalities agenda and of what we have achieved in relation to equalities. There is no place for the petition. The Scottish Government has already committed to putting LGBTI-inclusive education in the curriculum, so I would be happy to close the petition.

Brian Whittle: I do not have much to add. The reality is that the Scottish Government and Parliament are committed to ensuring LGBTI rights—in fact, the rights of any part of society. No matter what we decide to do here, the Scottish Government will not move from its position—it is very committed to ensuring those rights, as is Parliament, so it is difficult to see where the petition could go.

We should close the petition. Even if we were to write to the Scottish Government, I am pretty sure that we would close the petition straight after that, because the Scottish Government will not commit to doing anything other than what it is currently doing.

I agree with my colleagues. The only way forward with the petition is to close it.

The Convener: My sense is that the petition misrepresents what sex education in schools is. It is not advocacy; it is about understanding relationships. It involves provision of age-appropriate information—children will learn about different things at different stages. At the heart of it are the issues of consent, respect and dignity, which apply regardless of a person’s sexual orientation.

In my view, the petition misrepresents what is happening in our schools. A conversation is continuing about what that education should look like at every stage, and I know that parents can be heavily engaged in that. The argument is about whether schools should provide sex and relationships education. In my view, they should. If we agree that such education should be provided, there needs to be an understanding of where our

young people are, where their families are coming from and some of the complexities of relationships. That can only help our young people; it is not something to be fearful of.

I sense that committee members want to close the petition, not because they do not think that there is a conversation to be had about how sex education is taught in our schools, but because the petition misrepresents it. The idea that 20 years on from getting rid of section 2A of the Local Government Act 1986 and section 28 of the Local Government Act 1988, there would be concern specifically about the teaching of LGBTI issues is something that Parliament has already taken a view on. Across Parliament, there is a very strong commitment to equality, in that regard.

The committee will, therefore, close the petition on the bases that the Scottish Government has committed to having LGBTI-inclusive education embedded in the curriculum, and that the policy has the support of the Parliament. We thank the petitioner for bringing the issue to the committee's attention. Of course, she has the right to resubmit a petition in a year, should she choose to do so.

Rape Law (PE1773)

The Convener: PE1773 has been lodged by Sarah Takahashi, and calls on the Scottish Government to update the Sexual Offences (Scotland) Act 2009 to include the offence of a man being raped by a woman.

Our briefing note explains that the Sexual Offences (Scotland) Act 2009 created a statutory offence of rape, which replaced the previous common-law offence. Although the act broadened the definition of rape, a woman who rapes a man can still not be charged with rape. The petition argues that that is unfair and seeks a change in the law to resolve that inequity.

Do members have any comments or suggestions for action?

Brian Whittle: I did not know that that was not rape, so it came as a bit of surprise to me to read that.

A prejudice will exist, because a man being raped by a woman has different connotations from a woman being raped by a man. There is a perception that a man is more able to defend himself.

The Convener: I think that the issue is more to do with the definition of rape. In my view, other kinds of sexual assault are captured in law as things stand, but the issue is about the fundamental definition of what rape is, which is such that it can be done only be a man.

Brian Whittle: I would like to find out what the Scottish Government's view on the petition is. There will be other stakeholders whose views we should seek, too, including the Crown Office and Procurator Fiscal Service, the Law Society of Scotland and Rape Crisis Scotland.

The Convener: In legal terms, it is not that long since a fundamental review of rape was carried out, and I am sure that such matters must have been considered at the time. However, I think that it would be worth our while getting views on the issue. Does the committee agree to do so?

Members indicated agreement.

School Curriculum (British Sign Language) (PE1777)

11:15

The Convener: The final new petition for consideration is PE1777, which calls on the Scottish Government to introduce British Sign Language into curriculum for excellence.

Our briefing explains that very little of the school curriculum is statutory, although local authorities have a statutory duty to secure an adequate and efficient education for children of school age. Beyond that, young people are largely able to choose which qualifications they wish to take. The Scottish Qualifications Authority offers a number of qualifications on BSL.

The British Sign Language (Scotland) Act 2015 places a duty on the Scottish Government

"to promote, and facilitate the promotion of, the use and understanding of British Sign Language".

Local authorities must also produce BSL plans that set out what they will do in relation to use of BSL.

Do members have any comments or suggestions for action?

Maurice Corry: We should seek the views of the Scottish Government and Education Scotland, because the issue comes back to my point about learning support. It is important that it is looked at.

Gail Ross: I agree. Notwithstanding the petition, I have heard of a push from a number of sides to have BSL included in the curriculum. It would be interesting to hear the position of the Scottish Government and Education Scotland.

The Convener: The issue has featured in Parliament since its beginning. Back in the day, there was a lot of very effective campaigning on teacher training. Of course, now we have the 2015 act.

I have been in conversation with young people who use BSL. One of their issues is the capacity

of BSL teachers to operate at the level that is appropriate to their level of learning. It is not the basic stuff—for people who are trying to learn advanced higher physics, a much higher BSL skill level is required.

BSL should be more embedded in the system. It is such a basic thing: young people should be able to communicate with other young people, and the matter very much goes along with what we regard as inclusive education.

It would be interesting to write to the Scottish Government and Education Scotland. We would also be interested to hear from anyone else who has an interest in and is aware of the petition. We do not have to write to them, but such organisations might wish to say what they think introducing BSL into the curriculum would look like, and to give their views on schools' capacity to deliver that. There are some positive actions to take. Do members agree to do that?

Members indicated agreement.

The Convener: We have come to the end of our agenda. I thank everyone for their attendance.

Meeting closed at 11:17.

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