



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# **Citizen Participation and Public Petitions Committee**

**Wednesday 22 September 2021**

**Session 6**



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**CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE**

**4<sup>th</sup> Meeting 2021, Session 6**

**CONVENER**

\*Jackson Carlaw (Eastwood) (Con)

**DEPUTY CONVENER**

\*David Torrance (Kirkcaldy) (SNP)

**COMMITTEE MEMBERS**

\*Bill Kidd (Glasgow Anniesland) (SNP)

\*Paul Sweeney (Glasgow) (Lab)

\*Tess White (North East Scotland) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Monica Lennon (Central Scotland) (Lab)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Adam Smith Room (CR5)



# Scottish Parliament

## Citizen Participation and Public Petitions Committee

Wednesday 22 September 2021

[The Convener opened the meeting at 10:00]

### New Petitions

#### Railway Stations (Step-free Access) (PE1869)

**The Convener (Jackson Carlaw):** Good morning and welcome to the fourth meeting in 2021 of the Citizen Participation and Public Petitions Committee. Our principal agenda item today is the discussion of new petitions. I say to petitioners who might be tuning in and others who might be watching that, in advance of considering petitions, we receive submissions, including from the Scottish Government, which help to inform discussions such as those that we are about to have.

The first petition for consideration this morning is PE1869, which was lodged by Dillon Crawford. The petition calls on the Scottish Parliament to urge the Scottish Government to introduce legislation that would require all railway stations in Scotland to have step-free access.

The Scottish Government's submission highlights work that has been undertaken by the United Kingdom and Scottish Governments to fund accessibility improvements and create step-free access at more than 30 stations across Scotland's rail network. The submission stresses, however, that rail accessibility is a reserved matter, so it is not possible for the Scottish Parliament to legislate in this area, as requested by the petition.

It was interesting to receive notes in relation to work that is being done to establish step-free access at various stations and the other work that is being done to improve access in stations generally, but it seems that there is an obstacle as regards our considering a petition that seeks a legislative solution.

Do colleagues have any comments?

**David Torrance (Kirkcaldy) (SNP):** I have sympathy with the petition. Everybody would like access for all to be provided at stations. However, because rail accessibility is a reserved matter, on which the Parliament cannot legislate, I think that we should close the petition under rule 15.7 of standing orders.

**The Convener:** Do members agree to close the petition?

**Members indicated agreement.**

**The Convener:** The petitioner has been made aware of the submissions in relation to the access improvements that have been undertaken.

#### Autistic Pupils (Qualified Teachers) (PE1870)

**The Convener:** The next new petition is PE1870, which was lodged by Edward Fowler. It calls on the Scottish Parliament to urge the Scottish Government to introduce legislation that would require teachers of autistic pupils to be appropriately qualified to improve educational outcomes.

In its submission, the Scottish Government states that the Education (Additional Support for Learning) (Scotland) Act 2004, as amended,

"provides a comprehensive legislative framework for supporting children and young people to overcome barriers to their learning and achieve their full learning potential."

The submission details a variety of work that is being done with the aim of enabling teachers to support autistic children, and it highlights the "Additional Support for Learning Action Plan", which was published in October last year. Progress made against the action plan is expected to be monitored and reported on next month, in October 2021.

The Scottish Government's submission also points to qualifications that teachers can obtain to demonstrate their ability to provide support for children with additional support needs, such as a postgraduate certificate or diploma in inclusive practice.

In his submission, the petitioner emphasises the impact of education on the experiences of autistic people later in life and states that many people are now seeking answers as to

"why they were failed by the education system of Scotland".

Those people want to know what can be done to change the situation, and they want their voices to be heard.

The issue is one that has come before the Parliament in different guises over time. Would anybody like to comment on the petition?

**Tess White (North East Scotland) (Con):** The petitioner raises some very important points, which the committee should explore further. I understand that, in 2020, around 22,000 pupils were identified as having autism spectrum disorder. I propose that, if we agree to write to the Scottish Government, we ask it to consider adding to the list of stakeholders the children who were involved

in “Not included, not engaged, not involved: A report on the experiences of autistic children missing school”.

**The Convener:** Are members content that we write to the Scottish Government to seek a summary of the report on progress that has been made against the “Additional Support for Learning Action Plan” once it has been published, which we expect to be in the next few weeks—that will probably be in nice time for us to consider the petition again—and that we write to key stakeholders, including the children that Tess White identified, the General Teaching Council for Scotland, the Scottish Council of Deans of Education, Scottish Autism and the National Autistic Society, to seek their views on the petition and the Scottish Government’s submission on it? We will hold the petition open in anticipation of receiving their replies. Is everybody content with that approach?

**Members** *indicated agreement.*

### **Mental Health Services (PE1871)**

**The Convener:** The next new petition is PE1871, which was lodged by Karen McKeown on behalf of the shining lights for change group. We are joined for consideration of the petition by our parliamentary colleague Monica Lennon MSP—good morning and welcome, Monica. The petition calls on the Scottish Parliament to urge the Scottish Government to carry out a full review of mental health services in Scotland, which should include consideration of the referral process, crisis support, risk assessments, safe plans, how integrated services work together, first response support and the support that is available to families affected by suicide.

The Scottish Government’s submission details the work that is under way to improve the quality, access and variety of support that is provided for mental health. That includes tailored programmes to support national health service boards with long waiting lists, the establishment of 24/7 mental health assessment units and the distress brief intervention programme.

In response, the petitioner provided a very powerful submission—anybody who read it will have been naturally affected by it—in which she shared the story of her partner, Luke Henderson, who died in 2017, and their experience of seeking support from mental health services prior to his loss.

In response to deliverables against the suicide prevention action plan, the petitioner notes that the target to reduce the number of suicide deaths by 20 per cent by 2022 does not

“appear to be on track.”

I understand from advice that I have received that our predecessor committee considered a petition along these lines from the petitioner previously.

I invite Monica Lennon to speak in support of the petition to assist us in our consideration.

**Monica Lennon (Central Scotland) (Lab):** Good morning. I thank the committee for the opportunity to speak in support of PE1871.

Karen McKeown is a constituent of mine in Central Scotland. As I explained to your predecessor committee, she has become a friend through the most tragic of circumstances. Karen emailed me on 30 December 2017, just hours after Luke had taken his own life in the family home, with the children in bed. Members will have read in Karen’s submission that what happened was not through a lack of speaking out. We are all encouraged to speak out and to be open about our mental health. We hear that it is okay not to be okay. However, Karen and Luke tried to get help multiple times—about eight times, I think.

Sadly, Luke is not here, but Karen is still fighting, and not only for herself and her family. The outcome for them will never change, but when I spoke to Karen two minutes ago from outside the committee room, she impressed upon me that what happened to her family is not unique. I do not need to tell the committee that; we are all MSPs who represent communities and have our own mental health.

Karen is looking not for sympathy but for system change and action. She has become the go-to person for many other people who have sadly gone through the same tragic loss that she has gone through. Karen is supporting another constituent of mine—I will not give the person’s name—whose son was suicidal and was very vocal about how he felt. When he went to the crisis team, he was given a leaflet. That boy is not here today. That is why Karen’s petition is so important.

I acknowledge that the Scottish Government understands how serious the issue is and that it is a priority, but we are not getting things right. It is not just about putting more money into the system—although there are parts of the system that need more resource. There is a workforce crisis.

There are areas where crisis support does not exist, risk assessments are not being carried out, people do not have safe plans and pathways are not fully in place. We know from speaking to colleagues in Police Scotland that they are under increasing pressure. For someone who is in crisis or experiencing psychosis, it is not really the most helpful thing to have the police coming through their door. It is a tough job for the police, too.

I am grateful for the opportunity to speak to the petition today and to echo some of Karen's sentiments. The issue is a national crisis, and it is really important. Clearly, it was an issue before the pandemic, and Karen's petition predates Covid-19. The harms and issues around isolation, mental health and alcohol and substance use must all be considered. We need to give a space in the Parliament for people to share not just their experience but what they believe to be the solutions. We are fortunate that there are people in Scotland who care deeply and who support one another in their communities, and we should hear from people on the front line.

I am very concerned about the mental health and wellbeing of people who work in our national health service, in community services and in the police. They have to turn people away with leaflets, and that brings them their own stress and anxiety. Sadly, a young doctor in Lanarkshire completed suicide recently, and following that I received a lot of emails from doctors and other people in the health service.

I will make one last point. Our general practitioners have been doing and continue to do a wonderful job during the pandemic, but the video or telephone consultation does not work for everyone with complex mental health needs, and we need to consider that in any review of mental health services.

I hope that colleagues will take this opportunity. It is not about sitting here and criticising ministers or the NHS, as everyone is trying really hard, but we are not getting it right, and people are losing their lives.

I reiterate my support for the petition, which I hope provides an opportunity for people to contribute their thoughts and solutions so that we can get this right and save lives in Scotland.

**The Convener:** Thank you. I was quite struck by the petitioner's submission, and I am grateful to the petitioner for bringing the petition back. I understand that evidence was taken on the petition in the previous session. I did not hear that evidence, but I was quite affected by the petitioner's submission. I noted the difficulties that the petitioner continues to experience in relation to family members and other individuals whom she is seeking to support.

I very much take the point that we do not properly understand what additional impact the pandemic may have had on the Scottish Government's programme and on what the Government is trying to achieve, or the way in which the pandemic has compounded the difficulties that people are experiencing and our ability to deal with them. I start from that position.

**Tess White:** I was deeply moved when I read the petition. The petitioner, Karen McKeown, has been through a deeply distressing experience. I am concerned to hear that her partner repeatedly tried to seek mental health support in the days before his death.

I know that the Public Petitions Committee closed a similar petition from the petitioner in November 2019, I think, on the basis that the Scottish Government was undertaking significant work to address mental health services. However, given that almost two years have passed and that the petition predates Covid-19, as Monica Lennon said, it is important to assess what progress, if any, has been made.

The petitioner also raises the issue of suicide prevention, and, in her submission, the problems around accessing appropriate child and adolescent mental health services for her family following her partner's death. It is important that we note that, and the committee should consider pursuing those issues further in any correspondence with the Scottish Government.

10:15

I propose that we write to the cabinet secretary seeking an update on progress on the suicide prevention action plan and on the expansion of the distress brief intervention programme, including, importantly, whether the Scottish Government is on track to achieve its target of reducing the number of suicide deaths by 20 per cent by 2022.

It may also be worth contacting stakeholders such as the Scottish Association for Mental Health, the Royal College of Psychiatrists in Scotland, Samaritans Scotland and others to get their views. I would like to take a wider look. As Monica Lennon said, it is a crisis, it will not go away, it predates Covid-19, and we need to take action.

The petitioner's submission also refers to delays in relation to access to child and adolescent mental health services for self-harming behaviour, as well as minimal support for her autistic child. It would also be appropriate to follow up on those issues. Those are my recommendations.

**Paul Sweeney (Glasgow) (Lab):** I echo the moving testimony from Monica Lennon in representing her constituent; it is an incredibly touching issue. We have all had interactions with constituents and others in the past, with the same themes repeated around how, when people feel that they are in a crisis situation, help is not there. That is a devastating realisation for a lot of people, who perhaps assumed that, if the worst came to the worst, someone would be there to help.

I echo the useful points that Tess White made about the need to widen our investigation and inquiry. I think that we should pursue that.

I suggest that we also include prisons in the scope of our inquiry. I visited Barlinnie relatively recently and experienced the mental health crisis in the midst of our prison system. People who are suffering severe mental disability and mental health problems are incarcerated in conditions that are not appropriate for their condition. People who are suffering acute mental illness are, in effect, being warehoused in prisons. That is another element that needs to be discussed. I therefore suggest including the Scottish Prison Service in the organisations that we invite to discuss the issue with us.

**David Torrance:** I agree with my colleagues. We could also ask the Health, Social Care and Sport Committee whether the issue will be included in its work programme, as that committee might be best suited to take the petition forward. I agree that we could write to and get information back from all the different organisations that have been mentioned. However, if that committee is to dedicate time to the issue, there is no point in two committees doing so. If the petition is to be pursued, I would like it to be passed on to the Health, Social Care and Sport Committee.

**Tess White:** I go back to a point that Monica Lennon made. My concern is that, should we pass the petition to another committee, it is important that we receive that committee's review and that the petition does not get lost. This is a crisis and we cannot simply kick it into the long grass. It is really important that this committee sets a date on which it will review the petition—if that is members' joint view. It should not and must not be lost.

**The Convener:** I will sum up. We should very much keep David Torrance's suggestion in mind, although I think that he agrees with colleagues that, in the first instance, we should seek information on what the status of all the issues is, as Tess White and other colleagues have suggested.

I would like to frame those questions around asking for a candid assessment of where things were before the Covid pandemic happened and what the pandemic has done. What impact has it had on delivery? If the impact has been prejudicial, what steps are being taken to get back on track? In response to our inquiry, I do not want to be told, "Of course, we've had a pandemic." We all know that we have had a pandemic—I do not need to be told that. I would like to have a candid understanding of the pandemic's impact and the plans that are in place to resolve that, in relation to all our questions. We could get something back that tells us what we already know; I would rather

find out what we are going to do about the situation.

We will keep the petition open. Thank you very much for joining us, Monica. Are you happy with the course of action that we will take?

**Monica Lennon:** Yes. I thank colleagues for their considered thoughts. Tess White helpfully mentioned work that is being done on suicide prevention and distress brief interventions. For young people, I am troubled that CAMHS waiting lists are at their highest-ever level. To say, "Well, it's a pandemic," is not a good enough answer; we need to know what plans are in place.

Today's discussion has been important, because people are contacting the Parliament to look for action and support. As I said, we are talking not about sympathy and warm words but about how we deliver system change. If the Health, Social Care and Sport Committee has an interest, too, that will be welcome. I appreciate this committee's insight and interest today.

### Island Ferry Services (PE1872)

**The Convener:** PE1872 is on improving the reliability of island ferry services—I will be cheeky and say that our last new ferry was launched in 1872. The petition, which was lodged by Liz Mcnicol, calls on the Scottish Parliament to urge the Scottish Government to urgently ensure that all islanders have access to reliable ferry services. In its submission, the Scottish Government outlines action that it is taking in the short term and the long term to add resilience to the ferry fleet. That includes exploring opportunities to charter vessels to add resilience in the short term, and its long-term commitment to securing replacement vessels—several on-going projects are mentioned.

The Scottish Parliament information centre briefing highlights the major inquiry into the construction and procurement of ferry vessels that the Rural Economy and Connectivity Committee undertook towards the end of session 5. That committee's report was published on 9 December last year and made a range of recommendations, including calls for improvements in the strategy for replacing ageing vessels in the ferry fleet. Furthermore, in its session 5 legacy paper, the Rural Economy and Connectivity Committee drew the attention of its successor committee to several ferries policy issues.

That covers the submissions and evidence that we have. Do members have comments or suggestions for action?

**David Torrance:** The petition should sit with the Net Zero, Energy and Transport Committee. Its predecessor investigated the issues quite a lot,



and the subject is high on the current committee's agenda. I suggest referring the petition to that committee under rule 15.6.2 of standing orders.

**The Convener:** Is that on the basis that the Net Zero, Energy and Transport Committee can take the petition into account as part of its on-going review of ferry services?

**David Torrance:** Yes.

**The Convener:** That committee is already looking at the issue in detail. Does that suggestion meet members' approval?

**Members indicated agreement.**

### Hypnotherapy (PE1873)

**The Convener:** PE1873, which was lodged by Graeme Harvey on behalf of the Scottish Hypnotherapy Foundation, calls on the Scottish Parliament to urge the Scottish Government to instruct the NHS to provide hypnotherapy for the treatment of mental health, psychosomatic disorders and chronic pain.

In its submission, the Scottish Government recognises that hypnotherapy may offer relief to some patients but says that it is up to NHS boards to decide which complementary and alternative medicines services are made available—good luck with that. However, the submission states that hypnotherapy does not meet the standard of evidence that is required for recommendation for use as a psychological treatment on the NHS. Similarly, on addressing chronic pain, the Government's submission points to the Scottish intercollegiate guidelines network guideline, which states that

"No good-quality studies were identified to evaluate the efficacy of hypnotherapy"

and that further research is required.

In response, the petitioner suggests that the main issues are a lack of regulation and a lack of research. The petitioner explains that hypnotherapy is not regulated because the UK Government decided that it is a safe modality and that self-regulation should be sufficient.

Do members have any comments or suggestions? Having been on the petitions committee previously, I am always slightly suspicious when the establishment tries to close such things down on the basis that there is no evidence, because without research and trials there cannot be any evidence. I am nervous about that being the basis on which we agree to not do anything. Is there something that we could do to evidence any research?

**Paul Sweeney:** I note that the Government says that it is up to individual health boards to determine the appropriateness of that service

provision. Perhaps it would be worthwhile for us to invite health boards to make submissions on the provision in their areas so that we can see their views.

**The Convener:** That is a good idea and I would be interested to hear whether there has been any enlightenment in the various health boards in relation to alternative medicines and other therapies. I recall from a previous petition that practice was very variable and that some health boards subcontracted the work to other health boards or used their facilities, such as those at the centre for chronic pain or whatever it was that NHS Greater Glasgow and Clyde had at the time.

It would be useful to get an update from other health boards. Is there anywhere that we could find any evidence on the issue? I ask the clerks to pursue that. When we are told that the evidence is not there, where can we go to find some evidence?

**Bill Kidd (Glasgow Anniesland) (SNP):** To my knowledge, none of us here has a medical qualification to be able to decide for our benefit—never mind anyone else's—whether hypnotherapy could be used in that manner. On that basis, it is important that we take advice from experts in the field. As Paul Sweeney suggests, it would also be useful to invite health boards to give us their viewpoints and to tell us what they want and how they handle such issues. If we get expert opinions from health boards or someone else—through the clerks, please—that would give us a direction to go in, because otherwise we would have to accept that nothing can be done. I think that something could be done, but we just do not know yet.

**The Convener:** I sat on the cross-party group on chronic pain and I have come across people for whom some of those alternative approaches have clearly had a benefit. It is sometimes not clear talking to people in the medical establishment that they accept that those approaches can have a benefit.

I note that the UK Government regards hypnotherapy as a safe modality and that self-regulation should be sufficient. Is there anybody in the relevant UK department that we could ask about what it has done to come to that conclusion? We can see. Are members happy to try to establish different routes that we can pursue and keep the petition open?

**Members indicated agreement.**

### Artillery and Firearms Exclusion Zones (PE1874)

**The Convener:** PE1874, which was lodged by Dr Conrad Harvey, calls on the Scottish Parliament to urge the Scottish Government to

introduce legislation to create artillery and firearms exclusion zones around places of spiritual importance and religious worship in Scotland.

In its written submission, the Scottish Government outlines the principles that determine what types of development require planning permission, how applications are considered and the conditions and mitigations that can be applied when granting planning permission.

The Scottish Government states that planning decision makers already have

“the ability to consider and control noise in a way that reflects the particular circumstances”

of any proposed development. It also believes that a 5-mile exclusion zone around existing places of worship would be

“a comparatively blunt approach to controlling noise-generating developments.”

In his response, the petitioner reiterates his belief that it is inappropriate to have a shooting range within 5 miles of an established cathedral, temple, synagogue, mosque or monastery.

Would anybody like to offer a view?

10:30

**David Torrance:** The planning system already contains robust legislation to deal with the matter. In any case, planning is down to local authorities—they are the ones who have the knowledge. I do not know how we would ever enforce a 5-mile zone around a cathedral or any other religious place of worship. In Kirkcaldy, there are loads of churches and there is also a gun range at the back of the town—a 5-mile zone would take you to Kinghorn.

It is an impossible ask from the petitioner, and I am minded to close the petition under rule 15.7 of standing orders. Enough legislation is in place to allow the local planners to make such decisions.

**The Convener:** Given that the Scottish Government’s submission makes it clear that it has no plans to review or amend the legal and policy frameworks that would operate around the issue, I am minded to support Mr Torrance’s recommendation. Are we agreed?

**Members** *indicated agreement.*

### Scottish Qualifications Authority (PE1875)

**The Convener:** PE1875, which was lodged by Jordon Anderson, calls on the Scottish Government to order a public inquiry into the actions of the Scottish Qualifications Authority during the academic years 2019-20 and 2020-21.

Our papers explain that the Scottish Government has committed to establishing a

public inquiry into the response to Covid-19, which it says will be “comprehensive”. Moreover, in its submission, the Government advises that, in 2020, it commissioned a review to provide it with a better understanding of how the school curriculum is designed and to identify areas for improvement. The remit of the review, which was conducted by the Organisation for Economic Co-operation and Development, was expanded from an initial review of the senior phase curriculum to a full review of curriculum for excellence.

The resulting report was published on 21 June 2021 and, on that day, the Cabinet Secretary for Education and Skills confirmed that the Scottish Government accepted all of the review’s recommendations. She also stated that the Scottish Qualifications Authority would be replaced and Education Scotland substantially reformed. However, the petitioner states that replacing the SQA is not enough in itself, and that a public inquiry is needed.

Do members have any comments or suggestions?

**Tess White:** The past two years have been extremely challenging for teachers and pupils, and that situation has been compounded by very poor communication from the SQA, uncertainty over examinations, concern about results and so on. As a result, I would welcome some clarity from the Scottish Government on whether the Covid-19 public inquiry will cover the awarding of educational qualifications between 2019 and 2021. I have to say that, with the news that the SQA is to be replaced, I remain concerned that scrutiny of the issue might fall between the cracks. It is very important that that does not happen.

**Paul Sweeney:** There are systemic issues that need to be thoroughly investigated, particularly the effect of the moderation of examinations. The pandemic threw up huge issues of gross inequality, particularly in the 2020 exam diet; the grades were effectively determined by a postcode lottery, even though academic performances might have been the same. We need a serious investigation of the fundamentals of the operation of the exam system in Scotland. The petition’s suggestion would be a very worthwhile exercise and I am in favour of writing to the Scottish Government on that basis.

**The Convener:** Okay.

**Tess White:** When we write to the Scottish Government, convener, could we also clarify whether the remit of the public inquiry into the response to Covid-19 will include the SQA?

**The Convener:** Yes. Given that the inquiry is taking place and that it will now be comprehensive, it is perfectly reasonable to find

out whether that issue could be incorporated, too. Do we agree to proceed on that basis?

**Members** *indicated agreement.*

### **Body Cameras (National Health Service) (PE1877)**

**The Convener:** PE1877, which was lodged by Alex Wallace, calls on the Scottish Parliament to urge the Scottish Government to provide body cameras for all front-line NHS staff and paramedics in Scotland.

The Scottish Government has stated that it does not believe that bodycams would be necessary or appropriate for all front-line clinical staff as the safety risks vary considerably in different job roles. The submission highlights that the Scottish Ambulance Service has advised that the trade unions have shown no appetite for bodycams, and that attacks on paramedics in Scotland have decreased in recent years.

A feasibility study was conducted and the Scottish Government believes that the cost of the proposal would be prohibitive for health boards and would not provide value for money.

Do members have any comments or suggestions for action?

**David Torrance:** Considering the evidence from the Scottish Ambulance Service, the trade unions, and the Royal College of Nursing that they do not want bodycams, and given that the Scottish Government says that providing them would not be value for money and that there is no appetite for them, we should close the petition under rule 15.7 of standing orders.

**Tess White:** Abuse and attacks on NHS front-line staff are unacceptable. It is worth noting that NHS England announced in June that thousands of ambulance crews will be provided with body cameras as part of an NHS crackdown to reduce attacks on staff. Successful trials have been conducted in London and the north-east of England.

In light of the developments in England, as well as concerns about the treatment of NHS staff during the pandemic, I suggest that it is worth soliciting the views of the Scottish Ambulance Service, the Royal College of Nursing, the British Medical Association, and the Allied Health Professions Federation. We should not close the petition; we should look at it further because abuse and attacks on front-line staff are very concerning and completely unacceptable.

**The Convener:** The Scottish Ambulance Service has already made a submission to us saying that it does not feel that there is a demand for body cameras. [*Interruption.*] The clerk tells me

that it was the Scottish Government that made that point. In that case, I am quite happy to write to various organisations, if that is the committee's view.

As no member wishes to comment further, we will write to those organisations and see what kind of response we receive.

### **Mental Health (Care and Treatment) (Scotland) Act 2003 (Prosecutions) (PE1878)**

**The Convener:** PE1878, which was lodged by Andrew Muir, calls on the Scottish Parliament to urge the Scottish Government to investigate why there have been so few prosecutions under sections 315 and 318 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

The issue was raised in PE1786 from the same petitioner in February 2020. At the time, the Public Petitions Committee wrote to and subsequently received submissions from the Mental Welfare Commission and the Cabinet Secretary for Justice.

The SPICe briefing that we have received highlights that an independent review of mental health legislation is taking place, which will include a review of practice on compulsory detention, care and treatment since the 2003 act came into force.

In its submission, the Scottish Government notes that court proceedings under section 315 were taken in respect of 71 charges that were reported to the Crown Office and Procurator Fiscal Service between 2007-08 to 2019-20. Out of those, 38 led to a conviction. One case was reported to the COPFS in 2018 under section 318 of the act but it resulted in no action being taken because there was insufficient admissible evidence.

Do members have any comments or suggestions for action?

**Paul Sweeney:** I believe that we have received a submission from the petitioner, who is very keen to address the committee. I would therefore be content for the gentleman to be invited to present to the committee. I understand that the previous petitions were referred to the Mental Welfare Commission, which recommended closing them without action. The petitioner's concern is about the act not having a measure of outcomes to which professionals and pharmaceutical companies are held. On that basis, I would be content to invite the gentleman to present to the committee, if my colleagues are minded to agree.

**Bill Kidd:** I understand the argument about inviting the petitioner to come and make a statement. However, the petition raises no new substantive issues compared to the previous one

from the same petitioner. Before we invite the petitioner to speak to us, it might be worth while asking him whether he has anything new to raise.

**The Convener:** It is not appropriate for the committee to investigate individual cases. That is clearly stated in the guidance on submitting petitions. The evidence submitted in relation to the petitioner's previous petition, and from the Scottish Government in relation to the current petition, does not appear to highlight any new issues meriting investigation into the level of prosecutions under sections 315 and 318 of the Mental Health (Care and Treatment) (Scotland) Act 2003. We might want to elicit further information about what we could reasonably take forward before we invite the petitioner to speak to us.

**David Torrance:** I agree with Bill Kidd. I was a member of the previous petitions committee and heard evidence about the matter. I would like to see whether there is any new evidence before we make a decision.

**The Convener:** We could write to the Scottish mental health law review asking for an update on its work in relation to compulsory detention and to care and treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003.

I know that there was a previous petition and that evidence was taken on that. I understand that the petitioner is keen to speak to us again. Do we agree in the first instance to write to seek further clarification on whether there is anything new and substantive, of which we have not been made aware since our consideration of the previous petition?

**Members indicated agreement.**

### **Litter Picking and Waste Separation (Education) (PE1880)**

**The Convener:** PE1880, on awareness and practical experience of litter picking and waste separation in the school curriculum, has been lodged by Calum Edmunds, Susanna Zanatta and Tannith Diggory of Cleanup Glasgow. It calls on the Scottish Parliament to urge the Scottish Government to make an appropriate level of daily cleaning, including litter picking and waste separation, part of the curriculum in schools.

In her submission, the Cabinet Secretary for Education and Skills explains that the Scottish Government is committed to increasing the prevalence of learning for sustainability in the curriculum and says that the Government supports the ultimate aim of the petition. However, the Government believes that individual schools should determine the precise content of their curriculum and how it is applied to the timetable at school level.

Although the Government

"would prefer to avoid excessive prescription",

the cabinet secretary states her intention to share details of the petition, and her response to it, with Education Scotland and Keep Scotland Beautiful to ensure that the issues that it highlights are taken into account. She will do that in the context of exploring the current programme on litter and waste management to see which aspects of it could be strengthened.

The cabinet secretary seems keen to take forward the sentiments of the petition. Do members have any comments?

**Bill Kidd:** As someone who has been on litter picks quite recently, I am aware that many people of all ages—not just children—throw litter. Although people will congratulate and thank those who take part in a litter pick, the same area will be covered in litter again a week later. Someone is throwing litter; I do not know who. The best way to approach the subject is to increase children's awareness of the damage that litter causes to their community, so I think that we can take something from the petition.

From our papers, I understand that

"A 12-week public consultation will take place at the end of this year, and the refreshed strategy will be published in early 2022."

I hope that the development of that strategy will include people such as the petitioners, and I would like us to suggest that to the Scottish Government.

10:45

**Paul Sweeney:** While I agree with the Scottish Government's broad intent, it might be useful to identify areas where there is good practical application of such teaching in schools. It could be useful to identify and share that with the broader education bodies. There are pockets of very good teaching in schools. There is a particular school in Easterhouse that is doing a project called nae straw at aw. The whole school is engaged in it, and it is an incredibly inspirational exercise.

There are examples in Scotland where some really good work is being done. Perhaps those should be identified, and we should try to transplant the ideas behind what the schools concerned are doing more widely. I was not convinced from its submission that the Government is as enthusiastic about doing that as it might be.

**The Convener:** Given how the Government is approaching the matter, with the detailed schedule of actions, and given that it will share the details of the petition and its response, I am minded to close

the petition. A package of actions seems to be in place.

I agree, however, that there are two actions that we could take. First, we could ask the Scottish Government, in developing its consultation, whether it would be possible to consult or potentially utilise the petitioners themselves, given that they are an organised interested party. I also think that it would be useful to pick up Paul Sweeney's suggestion about giving more focus to best practice, and to do so with the appropriate level of enthusiasm and zest.

Beyond that, given that the Government is going to share the petition and is taking forward many of its aims, I am minded to close the petition.

**Paul Sweeney:** For the record, the school that I referred to is the Sunnyside school of conservation, which has developed a specialised curriculum. It would be well worth the Government taking action to benchmark against that.

**The Convener:** We can draw that to the Government's attention.

Thank you all very much. Do members agree to take the course of action that I proposed?

**Members indicated agreement.**

### **Sentencing (Paedophiles and Sexual Predators) (PE1881)**

**The Convener:** PE1881, which is on the sentencing of paedophiles and sexual predators, has been lodged by Carol Burns. It calls on the Scottish Parliament to urge the Scottish Government to increase the length of time that sexual predators serve in jail.

In its submission, the Scottish Government explains that

"the maximum penalty for the most serious sex offences, including rape, sexual assault by penetration and sexual assault, is life imprisonment."

The petitioner suggests a minimum sentence of four years in order to provide victims with some peace of mind.

The SPICe briefing notes that work is being done by the Scottish Sentencing Council to prepare

"sentencing guidelines in relation to rape, sexual assault, and indecent images of children."

I am minded to write to the Scottish Sentencing Council to seek an update on the progress of its work in that regard, particularly in relation to guidelines on rape, sexual assault and indecent images of children. Given that that work is under way, it would be useful to receive an update on it.

Is that agreed?

**Tess White:** I agree that it is very important to follow that up and to seek an update, but would it also be worth contacting Rape Crisis Scotland and Victim Support Scotland to ensure that we get their views? I would be concerned if their views were not taken into consideration. That is my suggestion.

**The Convener:** We can do that. It is important to note that the Scottish Sentencing Council is itself reviewing the issue. In some respects, I would have hoped that it has been taking evidence from other parties as part of its consideration of the matter, but there is nothing to stop us writing to those organisations, too.

### **Remand (Sexual Offences) (PE1882)**

**The Convener:** PE1882, which has been lodged by Laura Steel, calls on the Scottish Parliament to urge the Scottish Government to ensure that any person who is charged with a sexual offence against a child is remanded in custody.

In its written submission, the Scottish Government explains that the Criminal Proceedings etc (Reform) (Scotland) Act 2007 forms the basis of the current law on bail. As a result of that act, there is a general presumption in favour of bail. However, the legislation ensures that an individual could be held on remand where there is a substantial risk that they might abscond or fail to appear at court, commit a further offence or offences, interfere with witnesses or otherwise obstruct the course of justice, or where there is any other substantial factor that appears to the court to justify keeping that person in custody.

The Government states that the general presumption in favour of bail is reversed where an individual is accused on indictment of drugs, sexual, violent or domestic abuse offences and they already have a conviction in solemn proceedings on such a charge. In such cases, the presumption is that the individual be remanded.

The Scottish Government's submission also states that the European Court of Human Rights has developed case law that requires decisions on the remand of individuals who are accused of offences to be made on a case-by-case basis. As a result, it would not be possible for the Scottish Parliament to legislate to require that all individuals who are accused of certain offences, such as sexual offences, always be remanded in custody prior to trial.

Given that background, do members have any comments or suggestions?

**David Torrance:** Considering that the Scottish Government cannot change the law because decisions have to be made case by case, there is

not much that we can do. A precedent has been set by the European Court of Human Rights. Therefore, I think that we have to close the petition under rule 15.7 of standing orders.

**The Convener:** The fact that the Scottish Government cannot take forward the aims of the petition because it is outwith legal competence is certainly significant. Are colleagues minded to support David Torrance's suggestion?

**Members indicated agreement.**

### Whole Plant Cannabis Oil (PE1884)

**The Convener:** PE1884, which has been lodged by Steve Gillan, calls on the Scottish Parliament to urge the Scottish Government to make whole plant cannabis oil available on the NHS, or to provide funds for private access for severely epileptic children and adults in cases in which all other NHS epilepsy drugs have failed to help.

In response to the petition, the chief pharmaceutical officer outlines that the regulation, licensing and supply of medicines remains reserved to the UK Government under the Misuse of Drugs Act 1971, and that includes the scheduling of cannabis-based products for medicinal use. The chief pharmaceutical officer states that specialist doctors across Scotland have a "clear and united view" that they would be unwilling to prescribe any CBPMs containing tetrahydrocannabinol—the longest word today—until there is clear published evidence available following a clinical trial.

The submission notes that there is currently a lack of data on dosage, toxicity, interactions and monitoring of long-term side effects. However, the chief pharmaceutical officer has been engaging with the development of clinical trials in refractory epilepsy. In addition, the Cabinet Secretary for Health and Social Care will be writing to the UK Secretary of State for Health and Social Care to see what additional leverage can be brought to bear on potential solutions, to request an update on progress with clinical trials and to ask that manufacturers of CBPMs be encouraged to participate in those trials.

Do members have any comments or suggestions?

**David Torrance:** I would like us to keep the petition open. We should write to the UK Secretary of State for Health and Social Care to seek his views, especially on the clinical trials, and to find out what progress is being made. People say that whole plant cannabis oil helps them with a range of health complications. If it improves their quality of life, I would like to know whether it is going to be made available.

**The Convener:** Thank you for that. As someone who sat on the cross-party group on chronic pain, I know that there are individuals who will personally testify to evidence that they have heard or who are aware of somebody who has, under exceptional circumstances, benefited from use of the product. I ask the clerks to find out whether there is potentially a body of evidence from other countries where the use of whole plant cannabis oil may be an approved procedure. It is one of those issues on which we are told that the evidence does not exist, but it cannot exist within our own sphere. Various engagements are taking place in relation to potential trials. We should seek to find out what we can about those.

I am interested in the chief pharmaceutical officer's assertion that there is a "clear and united view" among specialist doctors that they would be unwilling to prescribe such products. Perhaps we could pursue that a bit more, because I would like to understand the reasoning for it.

Are members happy to pursue the petition on that basis?

**Members indicated agreement.**

**Paul Sweeney:** I agree. There is a potential reconsideration of the regulations on cannabidiol—CBD—products, although they are currently legal, so the point about the Misuse of Drugs Act 1971 is a bit of a red herring. Further investigation of safe dosage levels is needed, and we could undertake potentially informative clinical trials in Scotland. Furthermore, a cross-party group on medicinal cannabis has recently been established, so it might be useful for the petitioner to consider participating in that as a way of furthering his objectives.

**Tess White:** I support that suggestion and keeping the petition open. Confidentially, a constituent of mine has said that they are taking CBD for pain relief but, because it is not regulated and not on prescription, they are having to pay extortionate costs. It is much better for a product to be examined and clinical trials to be undertaken. There is also a suggestion that the petitioner's family member could take part in a clinical trial. Keeping the petition open, having clinical trials and exploring the matter further is a good way forward.

**The Convener:** We should certainly, as Paul Sweeney suggests, draw the petitioner's attention to the new cross-party group that has been established. I take note of Tess White's suggestion. We could write to the chief pharmaceutical officer about the petitioner's family member potentially being eligible to participate in the clinical trial that is being talked about. That is a useful, productive and proactive suggestion.

Do we agree to keep the petition open and wait to hear back from those we wish to write to?

**Members** *indicated agreement.*

### **Paediatric Liver Centre (PE1886)**

**The Convener:** Our final new petition, PE1886, which has been lodged by Ryan Gowran, calls on the Scottish Parliament to urge the Scottish Government to establish a specialist paediatric liver centre in Scotland.

In its written submission, the Scottish Government explains that there is neither any specific highly specialised service nor the clinical expertise to deliver paediatric liver transplantation or complex paediatric hepatobiliary surgery in Scotland, due to the specialist training that is required. Therefore, NHS Scotland commissions those services from NHS England, and they are delivered at King's College hospital in London, St James's University hospital in Leeds and Birmingham children's hospital. The submission notes that the reimbursement of travel and subsistence for children and their families is the responsibility of the NHS board where the child resides.

Based on available data for the past five years, the Scottish Government states that NHS Scotland's national services division has funded an average of five children per year to be assessed and/or treated by the specialist paediatric liver services in England. It explains that such a level of need is not consistent with ensuring that the case volumes seen or treated in Scotland are adequate to sustain a safe, fully staffed, highly specialised service. We have seen that across other medical disciplines, too.

In response, the petitioner states that there are significant costs involved when supporting a family member who is being treated so far from home and that that puts more strain on families. He states that it needs to be easier for families to be reimbursed for those costs and that long-term hospital families need much better support. He argues that the recently launched young patients family fund does not provide any true form of assistance for travel to other nations.

Do members have any comments or suggestions for action?

11:00

**Paul Sweeney:** The petition is timely, because it identifies a gap in thinking and planning. I acknowledge that the population base is insufficient to sustain such a service. Given that, on average, there have been only five cases per year, the service would not be economically viable, nor would it be clinically viable, because

expertise could not be sustained with that throughput of operations, so it makes sense for children to go to a UK-level centre of excellence.

However, that might cause huge disruption to a family, so it is very important that there are more robust obligations on the health service to provide sustenance to families who face that disruption. That point has probably been missed. If necessary, there should be greater statutory obligations on health boards to ensure that families do not suffer financial detriment as a result of that disruption.

**David Torrance:** I agree with my colleague Paul Sweeney. We should write to the Scottish Government to see whether we can make it easier for families who have travelled to have all their costs reimbursed. It is difficult enough to go through that experience, and many families will probably not be able to afford it, so the Scottish Government should make it easier for families to be reimbursed for the costs of travel, accommodation and so on.

**The Convener:** I am very happy to keep the petition open and to proceed on the basis that has been suggested. Financial reimbursement is often something of an afterthought, with proper consideration not being given to the mechanisms that should be in place. When health boards take varying approaches, the process can be complicated or not, depending on the health board concerned.

**Paul Sweeney:** I have a further reflection on reimbursement. Many families will not have the cash flow to fund the costs up front. Given that, under the Scotland Act 2016, the Scottish Government has greater latitude to introduce new benefits, consideration could be given to setting up a special grant for the very small number of families who are affected. Such a grant could support families with up-front payments to enable them to travel and stay in a location that is quite far from home.

**The Convener:** In our letter to the Scottish Government, I am quite happy to ask for the scope of the options that are explored to be broadened. The issue can hit any family and, depending on where they are and on accessibility, the incurred costs could be much higher or much lower. If they have to travel regularly but reimbursement is slow, or if they do not have access to funding to undertake that travel, even if the costs are subsequently reimbursed, that can be very prejudicial for families who are already highly sensitive and concerned about their child's welfare.

I am quite happy to write to the Scottish Government to draw out all those issues. The willingness is often there, but without there being a

full appreciation of how complicated the process for accessing funding can be.

Do members agree to proceed on that basis?

**Members** *indicated agreement.*

**The Convener:** I thank all members for their consideration of the petitions.

*Meeting closed at 11:03.*



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