



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Citizen Participation and Public Petitions Committee

Wednesday 17 November 2021

Session 6



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Pàrlamaid na h-Alba

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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE

7th Meeting 2021, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Bill Kidd (Glasgow Anniesland) (SNP)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Paul Sweeney (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Rhoda Grant (Highlands and Islands) (Lab)

Liam McArthur (Orkney Islands) (LD)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 17 November 2021

[The Convener opened the meeting at 10:00]

Continued Petitions

Tick-borne Diseases (Treatment) (PE1662)

The Convener (Jackson Carlaw): Good morning and welcome to the seventh meeting in session 6 of the Scottish Parliament's Citizen Participation and Public Petitions Committee. We will be considering two items: continued petitions and new petitions.

The first petition that we are considering, PE1662, on improving testing and treatment for Lyme disease and associated tick-borne diseases, is of long standing. It was lodged by Janey Cringean and Lorraine Murray on behalf of the Tick-borne Illness Campaign Scotland. It calls on the Scottish Parliament to urge the Scottish Government to improve testing and treatment for Lyme disease and associated tick-borne diseases by ensuring that medical professionals in Scotland are fully equipped to deal with the complexity of tick-borne infections.

When the petition was last considered, in September, we agreed to seek an update from the Scottish Government on the outcome of the round-table event that was due to be held to bring together clinicians, patient representatives and public health experts to discuss testing, treatment and the raising of awareness; on any progress that had been made in establishing an infectious diseases managed clinical network; and on the steps that were being taken by the Scottish Government to encourage research into Lyme disease.

In its submission, the Scottish Government confirmed that two round-table events have taken place and, as a result of those, two sub-groups have been set up—on raising public awareness and on the education of healthcare professionals. Both sub-groups have met in recent weeks. Work to establish an infectious diseases managed clinical network has been delayed due to the Covid-19 pandemic. On research, the Scottish Government has agreed that it will work with the Scottish Lyme disease and tick-borne infections laboratory at Raigmore hospital to consider potential improvements to testing methods and processes.

Meanwhile, the petitioners suggest from their perspective that the meetings that have been held so far have been promising but that more is needed. Although they were involved in the round-table events and the sub-group on public awareness, they are not represented on the sub-group on the education of healthcare professionals.

The petitioners stress that a key aim of their petition is to improve treatment for those who are chronically ill with Lyme disease or another tick-borne disease, and they suggest that it is crucial to ensure that healthcare providers receive adequate training to help them recognise and treat such conditions. They make a number of suggestions for suitable training resources. They suggest that the establishment of an infectious diseases managed clinical network is not a suitable alternative to creating specialist treatment centres. They feel that, although there has been progress in a number of areas, certain elements of their petition have not been addressed.

In passing, I mention the interest in the petition, over time, from our colleague Alexander Burnett, who held a members' business debate on the topic.

It seems to me that a considerable amount has been achieved. I ask David Torrance to remind us newbies on the committee of the work that was undertaken last session on what is a long-standing petition.

David Torrance (Kirkcaldy) (SNP): The petition has been going for some time. Last session, a lot of work was done. A lot of evidence was taken, questions were asked and, as you have said, there was a members' business debate.

I think that the Scottish Government has heeded what the petition has asked for and that a lot of progress has been made on what the petitioners want. I would therefore quite happily close the petition, in accordance with rule 15.7 of standing orders. However, I ask that, in doing so, we write to the Scottish Government so that it can continue to engage with the petitioners.

The Convener: I am content with that. The establishment of the sub-groups on the education of health professionals and on public awareness, and the commitment to establishing the clinical network, are all positive actions.

Does anyone else wish to come in?

Alexander Stewart (Mid Scotland and Fife) (Con): An enormous amount of work has been done on the matter over the past few years. We have come on a journey, and I commend everyone who has been actively involved. There are the champions on the education side of things,

and it has been vitally important to ensure that general practitioners and the profession are much more informed. I would concur with David Torrance: I think that we have done enough at this stage. There may be opportunities to clarify things in the future but, as we have seen and heard, a lot has been done and achieved so far in the process.

The Convener: Colleagues, are we content to close the petition on that basis?

Members *indicated agreement.*

The Convener: I thank the petitioners for their contribution over a sustained period of time. Considerable progress has been made, and they can take a lot of congratulation and satisfaction from the fact that that is the case. As David Torrance has suggested, we will encourage the Scottish Government to continue to engage as the various projects progress.

Air Traffic Management Strategy Project (PE1804)

The Convener: Our second petition today is PE1804, calling for a halt to Highlands and Islands Airports Ltd's air traffic management strategy. The petition has been lodged by Alasdair MacEachen, John Doig and Peter Henderson on behalf of the Benbecula community council. The petition calls on the Scottish Parliament to urge the Scottish Government to halt Highlands and Islands Airports Ltd's ATMS project and to conduct an independent assessment of the decisions and the decision-making process for the project.

I am pleased to welcome Liam McArthur, who I recall vividly asked a question on this matter or made an intervention during a debate. I had thought that it was a question to the First Minister, but it turns out that it was an intervention at a members' business debate. Welcome to you, Liam. I also welcome Rhoda Grant, who I think is an unofficial member of the committee. I have remarked before that you seem to have a season ticket to our proceedings, Rhoda. It is a testament to the strength of the petitions that we are considering from the Highlands and Islands region. I am delighted to have you both here. Before I invite you to speak, I will provide a brief summary of what has happened since we last considered the petition.

At our previous consideration, we agreed to write to the Cabinet Secretary for Net Zero, Energy and Transport, the Civil Aviation Authority, the Scottish Government's digital assurance office and the Prospect trade union. We were seeking information from the cabinet secretary about the current status of the project, whether it was still on budget and when a decision from the Civil Aviation Authority on the issue of automatic dependent surveillance-broadcast—ADS-B—was to be

expected; we asked about an update from Prospect about recent talks with Highlands and Islands Airports Ltd; and we asked for information from the Civil Aviation Authority regarding where remote tower technology had been successfully deployed. As I recall, that referred to the assertion that there were examples all around the world, and I wanted to know where they were. We also sought information from the Scottish Government about action taken following the assurance health check that was carried out in January 2021 and an assurance that the project was complying with Scottish Government requirements for a project of this nature.

I am pleased to say that we have received responses to all our correspondence, and a summary of those has been provided for members with this week's papers. The petitioner has provided a further submission, which members should have in front of them.

I now invite Rhoda Grant and Liam McArthur to comment and contribute.

Rhoda Grant (Highlands and Islands) (Lab): If the committee will indulge me a little, I have some information that I would like to relay, having spoken to the petitioner.

As you have said, convener, HIAL and Prospect recently released a joint statement, saying that they had agreed a framework for discussion regarding a new way forward for ATMS. Some people have taken that to mean that air traffic staff will now remain local. However, that is not the case. Work on the remote towers is continuing; only the timetable has changed. It is widely believed that HIAL is not looking for a meaningful solution that does not involve remote towers.

I understand from the petitioners that HIAL has hit some of the problems that were predicted in the evidence that they submitted to the committee, and that is why it has agreed to a delay. HIAL has stated that it will review air traffic provision after it has implemented the surveillance programme—which is commonly referred to as radar. My understanding is that the ATMS timetable has effectively been put on hold by HIAL for five years while it develops surveillance, which is required regardless of whether it proceeds with remote towers. HIAL has said, however, that it will implement remote towers in Inverness. That makes no sense, except that it has already bought the building where they will be located. That has no support from staff, or indeed from the public.

Neither have remote towers been ruled out for any of the other airports. They are merely being postponed for up to five years by HIAL in the hope that the problems that are dogging the project at the moment will be resolved. There is obviously a concern that delays will add to costs.

The CAA currently requires both primary and secondary radar. Primary radar shows any aircraft flying in the vicinity as a blip on a screen while secondary radar requires equipment to be carried on an aircraft to identify it to the controller. HIAL want to use the form of radar that shows suitably equipped aircraft. That is an issue in some of those airports where flight clubs and light aircraft use airports quite often.

In evidence submitted to the committee, the Minister for Transport said:

“HIAL have had many discussions with the CAA around the direction of travel towards a more cooperative surveillance approach (which ADS-B is one element of such a system). The CAA has not, however, given HIAL a firm timeline for implementation.”

The CAA requires HIAL to install primary radar. That could cost in excess of £30 million to implement, which has not been budgeted for.

Benbecula and Wick John O’Groats airports are being treated separately. HIAL wants to downgrade those airports from an air traffic control service to a flight information service. The impact on the community that is served by Benbecula airport will be profound, and both Wick and Benbecula may have difficulty in finding airlines to operate PSO routes.

Downgrading will also decrease safety, which is unacceptable to the petitioners, air traffic staff and the communities that those airports serve. It could result in a less safe and less flexible operation and may lead to airborne conflict, putting passengers at risk. That is especially an issue in Benbecula, which is very close to the QinetiQ range. It could also prevent Wick from becoming a hub for offshore traffic, as it was quite recently in the past. At the moment, work is on-going to attract more, rather than fewer, flights to both those airports. It will also cause unnecessary delays and cancellations to aircraft using those airports in bad weather during the winter.

I will quote what one of the petitioners told me this week. He said:

“In short, ATMS has been a mess since its conception. It is continuing in the same way. The wheels are coming off HIAL’s ATMS juggernaut, yet it rolls on leaving damage in its wake. It needs to be steered into the scrapyard of history and left there. HIAL as an organisation must get a blank sheet of paper, sit down with the representatives of the communities it is meant to serve and redesign itself. The board and senior management have completely lost sight of their role, which is to run airports efficiently for the benefit of their communities, not squander taxpayers money on unnecessary vanity projects.”

I could not agree more.

In the short term, I suggest that the committee contacts HIAL to get a clear indication of its plans regarding surveillance and remote towers, and whether it will recoup or lose funds if it disposes of

the building that it has bought to house remote towers in Inverness. In the long term, I suggest that we keep a watching brief on the petition, because I fear that those developments are designed to take the heat out of the situation but make no real change to the future direction of travel.

The Convener: We note that suggestion.

Liam McArthur (Orkney Islands) (LD): I thank the convener for allowing me to participate in these discussions.

I do not have a great deal to add to what Rhoda Grant set out, which was comprehensive and which I agree with in its entirety. The five-year delay was almost inevitable anyway. The deadlines that HIAL was working to were always heroically overambitious. We therefore would have been at this point at some stage in the future anyway; alongside—as Rhoda touched on—an inflated budget, given the problems that the project has already hit.

I recognise that, from the perspective of the committee, building in that five-year hiatus makes it difficult to pursue lines of inquiry, because the response that the committee will get back is that it is all under consideration and that they will take a view in four to five years’ time.

However, given the investments that HIAL is making in a remote tower in Inverness and the reputational investment that the senior management has made in remote towers, the fact that they are not talking about alternatives to the remote tower model reinforces the impression that they have bought themselves a little bit of time. They have bought themselves a little bit of breathing space from the criticism that they were receiving from across political parties and, more importantly, the communities that are most directly affected. Therefore, I hope that there is some mechanism whereby the committee can make it clear that the matter remains in the crosshairs of scrutiny, however that pans out over the next few months and years.

10:15

The Convener: Thank you both very much. Do any colleagues want to respond to that? I am minded to keep the petition open if the committee is so minded. Rhoda Grant suggested that we contact HIAL to get a clear idea of its plan, including what buildings have already been purchased and the potential loss of money in relation to those.

Paul Sweeney (Glasgow) (Lab): The only other thing that sprang to mind was that we should perhaps seek submissions from the operators at the airports, such as Loganair. I do not know

whether there are other airlines or users of the airports that it might be worth contacting to get their understanding of the situation and hear their concerns, as well as hearing from the Scottish Government, HIAL and the trade union.

The Convener: The clerks tell me that we have not done that previously. As that is the case, it is a sensible suggestion.

Rhoda Grant: I mentioned flying clubs and people who use recreational aircraft. It might be worth trying to contact some of them to find out what their concerns are. When the remote tower model was first mooted, there were concerns about how the airspace would be managed and how that would impact on their activities. There is a flying club based at Inverness, but there will be other such organisations throughout the area.

The Convener: We will investigate that.

Liam McArthur: In correspondence with HIAL, it would be helpful to tease out what alternative options it is actively considering. It has talked about delaying a final decision on remote towers but no alternatives.

The Convener: No alternative in the event that that delay becomes permanent.

Liam McArthur: Absolutely.

The Convener: Fair enough. That seems sensible.

Is the committee happy with all of that?

Members *indicated agreement.*

Autism Support (PE1837)

The Convener: The next petition is PE1837, on which colleagues might remember that we took evidence at our previous meeting. The petition was lodged by Stephen Leighton and calls on the Scottish Parliament to urge the Scottish Government to clarify how autistic people who do not have a learning disability and/or mental disorder can access support and to allocate investment for autism support teams in every local authority or health and social care partnership in Scotland.

We last considered the petition on 6 October, when we took evidence from Kevin Stewart, the Minister for Mental Wellbeing and Social Care, and two Scottish Government officials: Hugh McAloon, deputy director for children and young people's mental health; and Jacqueline Campbell, unit head, children and young people's community mental health. The evidence-taking session highlighted a number of key themes, including learning disability and autism in legislation, access to support services, user-centred services and good practice; and funding.

At that session, the minister stated that the Scottish Government was committed to publishing a learning disability, autism and neurodiversity bill and to creating a commissioner to uphold and protect the rights of autistic people and others with neurodevelopmental difference.

The committee also heard that the support that is available to people with autism varies significantly across Scotland—that was quite marked—and could be particularly scarce for those who do not also have a learning disability or mental disorder, which is at the heart of the petitioner's concern. That increased the risk that people could be turned away from services, leaving them with no alternative route for support.

The minister recognised the need

“to ascertain what is going on out there that is right and what is not going ... so well”—[*Official Report, Citizen Participation and Public Petitions Committee*, 6 October 2021; c 26.]

and emphasised the importance for people with autism to influence decision making. The minister also highlighted a number of recent funding announcements that are relevant to the petition, and it was a very informative evidence session.

Bill Kidd (Glasgow Anniesland) (SNP): I am aware that the petition is about people, particularly those with autism, who do not have a learning disability. The Scottish Government has already stated that it will publish a learning disability, autism and neurodiversity bill in order to create a commissioner role that will look into the range of autistic circumstances, and I think that that pretty well covers the matters that the petition relates to.

Paul Sweeney: Although it is encouraging that the Government's response has indicated the forthcoming legislation, it is important to give the petitioner some degree of assurance that the specifics of the legislation will address the concerns that are outlined in the petition and also perhaps offer a degree of assurance about more immediate measures that could be put in place. In order to satisfy the petitioner's concerns, a more specific response from the minister would be helpful.

The Convener: Yes—that is a fair request.

Alexander Stewart: I agree with Paul Sweeney's comments. A response from the minister about what might be in the legislation would give us more information for when we are scrutinising the bill. We found that there was a postcode lottery in the situation across councils and areas of Scotland, and there will be repercussions across many of those areas as to what can be achieved in the short and medium term, so that information would be very useful.

The Convener: David Torrance, do you agree as well?

David Torrance: I absolutely agree, convener.

The Convener: I was not sure whether you were going to make the same point or a different one.

We will write to the Minister for Mental Wellbeing and Social Care to ask how the Scottish Government will address the specific concerns that were raised in the petitioner's request, both in the short term and in the context of that forthcoming legislation. We will also write to the minister to ask how he intends to collect and disseminate examples of good practice of services that are available.

Non-statutory Child Advocacy Services (Regulation) (PE1838)

The Convener: The next continued petition is PE1838, which was lodged by Martin Baker and Katherine Bailey. It calls on the Scottish Parliament to urge the Scottish Government to ensure that non-statutory child advocacy services are properly regulated to ensure competence, transparency and accountability.

We expect to be joined by Christine Grahame, who will speak to the petition. Before we—potentially—hear from Christine, I will give members some background information.

When we last considered the matter in September, the committee decided to write to the Minister for Community Safety to ask whether she would undertake the necessary work to introduce legislation to regulate non-statutory child advocacy services. In response, the minister stated that, at this stage, she is not in a position to commit to a consultation on such regulation. She highlighted that, were that to be considered, there would be a number of issues to take into account, including enforcement, ensuring independence of child advocacy services and costs.

The minister also drew the committee's attention to a new section that has been added to the Children (Scotland) Act 1995, section 100A, which provides that

"Scottish Ministers must make such provision to ensure that all children concerned in proceedings in which the court is considering making an order under section 11 of the 1995 Act (on matters such as child contact and residence) have access to appropriate child advocacy services."

The minister's intention is, prior to the implementation of that section, to undertake a full public consultation, with impact assessments, in 2023.

In their most recent submission, the petitioners state that they are

"dismayed at the apparent lack of urgency on the matter",

and note, in particular, their disappointment that the proposed consultation is to begin in 2023. The petitioners reiterate their view that

"advocacy workers are intervening in a child's life and influencing his/her view of its own family life without transparency or accountability."

We had hoped to have Christine Grahame with us, but she is not here at the moment, so I ask colleagues whether they have any views that they would like to express.

David Torrance: I know that it is not what the petitioners want to hear, but the Scottish Government is committed to having a review in 2023, and the new section 100A in the 2015 act will ensure that the Scottish ministers make provisions.

From the minister's response, it is clear that the Government is not willing to go to a consultation at this time, so I am quite happy to close the petition under rule 15.7 of standing orders. If the petitioners are not happy with the outcomes in 2023, they can bring back a fresh petition.

The Convener: Are members happy to accept David Torrance's proposal? It seems that there is to be a consultation in 2023. I am sorry that we cannot hear from Christine Grahame this morning, and I understand the petitioners' disappointment about the timeline, but it is Government's intention to proceed on that basis, and its action will address the concerns raised by the petitioners. Do members agree to close the petition?

Members indicated agreement.

Adult Disability Payment (Eligibility Criteria) (PE1854)

The Convener: PE1854, which was lodged by Keith Park on behalf of the MS Society, is on reviewing payment eligibility criteria for people with mobility needs. It calls on the Scottish Parliament to urge the Scottish Government to remove the 20m rule from the proposed adult disability payment eligibility criteria or identify an alternative form of support for people with mobility needs.

At its previous consideration of the petition in September, the committee agreed to write to the Department for Work and Pensions and the Scottish Government. Specifically, we asked for clarity on the issue of delivering adult disability payments on a "like for like basis" with personal independence payments.

In his response, the Minister for Social Security and Local Government acknowledges that respondents to a recent Scottish Government consultation on ADP raised a number of key concerns, including that existing eligibility and

payments should be protected with the introduction of any new benefit; that benefit recipients should not have to reapply for benefits to maintain their current entitlements; and that existing eligibility criteria on mobility do not adequately reflect the impact of certain disabilities and health conditions, with many responses focusing specifically on the 20m rule.

The minister states that an agreement has been reached with DWP that passporting to reserved benefits for ADP clients will be assured in the immediate term. However, the minister notes that any significant change to the eligibility criteria for adult disability payments could risk undermining that agreement.

The DWP response provides an example of when receipt of enhanced devolved benefits can result in an additional payment from a reserved benefit. However, the petitioner states that the example provided by the DWP supports the position that an enhanced rate of mobility payment does not entitle an individual to any additional reserved benefits and therefore would not be negatively impacted by a change to the eligibility criteria for the ADP.

The petitioner requests that the petition is kept open to allow stakeholders and the committee to examine the Scottish Government's response to the ADP consultation, and to take evidence from stakeholders.

That was quite a long summation, but I am sure that we all recall our discussion of the 20m rule and our writing to the various parties in relation to it. Would any member like to comment?

Bill Kidd: I have known people who have gone through the whole process. I believe that the 20m rule is a degrading and inhumane approach, particularly when it is repeated on more than one occasion. That rule should not be there in the first place. I would be perfectly happy to continue the petition and look for further routes to try to achieve elements of what the petitioner is seeking.

Paul Sweeney: I agree with Bill Kidd. The principle has broad agreement across Parliament and there is a desire to do something. It is a question of legality and the potential unintended consequences that might affect DWP qualification. It is a grey area that needs to be dealt with sooner rather than later. We need to firm up the devolution of social security and how interactions between DWP and Social Security Scotland perform. The petition presents an extremely opportune way of doing that.

10:30

With that in mind, it would be helpful to invite further submissions from, for example, the MS

Society, Citizens Advice Scotland, the alliance, the Neurological Alliance of Scotland and Parkinson's UK. I highlight those groups as an indication of those who made submissions on the petition in the first instance or that indicated support for it.

We need to chip away to get the issue sorted out. Although it is a technical issue, given the severe harm that is potentially caused to people, getting the matter resolved sooner rather than later would be more helpful than deferring it. We should try to get the system designed and fixed quicker than would perhaps otherwise happen.

David Torrance: I agree with colleagues. We should keep the petition open and seek advice from stakeholders.

Alexander Stewart: I agree. We need to continue to seek advice and find out people's views. Those organisations have a strong commitment to the issue and have already given some strong views, but it is vital that we get the views of stakeholders and those who have to progress through the system. Continuing the petition and taking further evidence will enhance our opportunity to try to find a solution.

The Convener: Are we agreed that we will keep the petition open, that we will seek the views of the various bodies that we referred to and that we will seek the views of some of those who contributed the original submissions to which the Scottish Government and the DWP subsequently responded?

Members *indicated agreement.*

Curators Ad Litem (Regulation) (PE1857)

The Convener: The next petition is PE1857, which is about the regulation of the role of the curator ad litem. I apologise that, when we last considered the petition, despite my O-level Latin, I could not remember whether it was pronounced "lit-em" or "light-em." After that transgression after 50 years, I am told that it is "light-em".

PE1857 was also lodged by Stephen Leighton—we considered a separate petition of his a few moments ago. The petition calls on the Scottish Parliament to urge the Scottish Government to regulate the curator ad litem and ensure historical claims of malpractice of curators ad litem in Scotland are investigated.

At its previous consideration, the committee agreed to write to key stakeholders seeking views on the action called for in the petition. In its submission, the Scottish Mental Welfare Commission states that curators ad litem are bound by the regulations of their respective professions. Usually, the role is held by solicitors and, less commonly, by social workers.

The Scottish Legal Complaints Committee states that it has no specific role in the regulation of, or in dealing with complaints regarding, curators ad litem. However, it may have a role if a complaint is made that a solicitor acting as a curator ad litem has breached certain standards of service or conduct that apply to solicitors.

The SLCC responded to a recent consultation that included proposals for a new register of curators ad litem and a regulatory complaints regime. The commission suggested that, although a dedicated complaints process might be positive, it could potentially result in parallel investigations on the same matter, with different decisions, outcomes and sanctions being made against a practitioner.

The Scottish Social Services Council suggests that requiring all curators ad litem to register with it would result in dual registration as the majority of curators are solicitors who are already registered with the Law Society of Scotland.

That is quite complicated and technical legalese. Do colleagues have any thoughts?

David Torrance: The submissions from all the people involved—such as the Scottish Legal Complaints Committee—are not very supportive of the petition. However, I note that there will be a review of mental wellbeing and social care in 2023, I think—I might stand corrected on that. Nonetheless, if the petitioner is not happy with the outcome of that, they can bring a petition back. I am therefore happy to close the petition under rule 15.7 of standing orders.

The Convener: As there are no further thoughts from colleagues, do we agree to close the petition?

Members indicated agreement.

The Convener: The fact that a regulatory regime is anticipated to be operational by 2023 allows us to close the petition at this point. However, we will obviously keep an eye on how the matter progresses and, if it falls short, encourage the petitioner to come back to us with another petition at that time.

Prescription and Limitation) (PE1860)

The Convener: PE1860, which was lodged by Jennifer Morrison Holdham, calls on the Scottish Parliament to urge the Scottish Government to amend the Prescription and Limitation (Scotland) Act 1973 to allow retrospective claims to be made.

When the committee last considered the petition, it decided to write to the Scottish Government to request an indication of the number of requests that the courts have received

to override the principal limitation time limits and how often they exercised that discretion.

The committee received a response from the Minister for Community Safety, who states that, although section 19A of the 1973 act allows the courts discretion to override the principal limitation time limits, the Scottish Government does not collect information about when that discretion is used. The Scottish Courts and Tribunals Service has also confirmed to the minister that the information is held in a court interlocutor and, therefore, the SCTS is unable to interrogate the information. The minister ends her submission by stating that the majority of the types of civil cases relevant to the petition are likely to be initiated within the three-year time limit. Given those circumstances, only in a few cases will a court ever have to consider whether to use its equitable discretion to disapply a time limit.

That sounds like an awful lot of nonsense to me. We were specifically assured that there was an appeals process. We wrote to find out whether, in practice, that was a false curtain of comfort, whether the right of appeal had been exercised and what the outcome of anybody trying to exercise it had been. In essence, we are being told that no records exist of whether requests have been made or what the outcome of any such requests was.

I do not know whether I am alone in this, but I am afraid that I am left with the impression that it is like meeting “The Men from the Ministry”. The petitioner and others have been told that there is an appeals process, but there is nothing to indicate whether it is a reality or a chimera.

That is my tuppenceworth. Does anybody else want to come in?

Alexander Stewart: I agree, convener. You have given a good synopsis. Without question, individuals have no ability to see whether such a process exists. We are told one thing, but the practice is completely different. I have real anxiety about that.

David Torrance: I find it incredible that no information is available on how many times the appeals process has been used. I would be happy to write to the Scottish Government again to ask how it will fill that gap and provide evidence.

The Convener: On that basis, do we agree to write to the Scottish Government expressing our concern about the fact that we have no data to quantify the use of a process that is meant to be a recourse for the public, that we point out that simply telling us that there is no way to quantify that falls short of the adequate security that the process is intended to provide in the first place and that we ask what its attitude to that is?

Members indicated agreement.

Surgical Mesh and Fixation Devices (PE1865)

The Convener: The next petition is PE1865, on the use of surgical mesh and fixation devices, which was submitted by Roseanna Clarkin, Lauren McDougall and Graham Robertson. Colleagues will recall that we took extensive evidence on the petition just prior to the October recess. It calls on the Scottish Parliament to urge the Scottish Government to suspend the use of all surgical mesh and fixation devices while a review of all surgical procedures that use polyester, polypropylene or titanium is carried out and guidelines for the surgical use of mesh are established.

We took evidence from Maree Todd, the Minister for Public Health, Women's Health and Sport; David Bishop, Scottish Government mesh team leader; and Terry O'Kelly, a senior medical adviser at the Scottish Government, and we agreed to consider the evidence at this meeting. As I am sure that members will recollect, the evidence-taking session highlighted a number of key themes, the first of which was the work of the Scottish Health Technologies Group on mesh and alternative treatments such as natural tissue repair.

Secondly, there was the importance of informed consent for patients undergoing mesh treatments. The minister accepted that more work needed to be done on the matter, given that people were reporting an experience similar to that of women who had allegedly been through the informed consent process in relation to transvaginal mesh, as identified in the parallel petition on mesh that we closed at our previous meeting.

The third theme that emerged was that of future data collection using a unique device identifier, such as a barcode, on all implanted devices to track the device and patient progress.

A summary of the evidence has been provided for members in this week's papers, and we have also received a response from the petitioner following the evidence session, which has been circulated, too. Perhaps colleagues would like to discuss where their minds are at following the evidence session.

David Torrance: I suggest that we keep the petition open and write to the Minister for Public Health, Women's Health and Sport to request an update on the outcome of the Medicines and Healthcare products Regulatory Agency report, because it is important that we know about that before we make a decision about anything.

Alexander Stewart: I concur. We have heard from the minister about the various themes, and we know about some of the areas of data collection that need to be looked at, but it would be useful to continue the process to ensure that we get the full information that we need on how things are operating and progressing, and to allow us to take a measured approach to the matter. A huge amount of work is being done on what is a very topical issue for many people, with concerns still being raised about how things are being managed. I suggest, therefore, that we keep the petition open, as it would allow us to seek more evidence and to make progress on behalf of the organisations involved and the individuals who are going through the procedure.

Bill Kidd: Sadly, the issue that the petition deals with is of the moment and has been for quite some time. It is important that the committee continues its work on the matter—I was going to say "continues its pursuit", but that seemed a bit strong. We need to keep the issue in the public domain and the Scottish Government's eyes fixed firmly on it until it can be resolved.

Paul Sweeney: One of the interesting aspects of the evidence that we received was the suggestion about alternative treatments, with innovations happening at, for example, the Shouldice hospital in Canada. It would therefore be helpful to engage formally with that institution to find out what the people there regard as an appropriate alternative form of treatment. As there was less certainty about what was going to happen in Scotland in that respect, it would help if we could firm up our understanding of what such treatments can offer.

The Convener: I agree. I felt that a distinction emerged in the evidence session between what is set out in this petition and the use of polypropylene mesh in transvaginal procedures, which the Scottish Government has stayed for the moment. I do not know whether the petition's ultimate aim, which is an outright ban on all mesh procedures, was necessarily validated by the evidence that I heard, but what came out of the evidence was a number of other issues that colleagues have identified and which we should continue to explore. Again, those issues are informed consent, alternative options with regard to tissue and, more generally, the materials that are in use and the reviews that are taking place.

On this occasion, there is real merit in continuing with the petition and exploring the issues that colleagues have identified, but recognising that we are doing so as a consequence of the evidence session and not necessarily in the expectation of its leading to the outcome that the petitioners are seeking, which is a ban on all such procedures.

If members feel that that is a reasonable assessment, do we agree to keep the petition open and proceed on that basis?

Members *indicated agreement.*

The Convener: I thank members for their suggestions.

Paediatric Liver Centre (PE1886)

10:45

The Convener: The last of our continued petitions is PE1886, which was submitted by Ryan Gowran. It calls on the Scottish Parliament to urge the Scottish Government to establish a specialist paediatric liver centre in Scotland.

The last time we considered the petition, the committee agreed to write to the Scottish Government, not so much in relation to pursuing that option, but to highlight the petitioner's concerns and to ask what financial support could be made available to families who travel to support family members who are being treated far from home. We identified that there was a substantial up-front cost that was not necessarily equitably bearable by a number of families, depending on how often they had to incur that cost before they were able to receive any reimbursement.

In its submission, the Scottish Government states that guidance is available to national health service boards on the reimbursement of patient travel costs. Furthermore, it states that

"individual Boards are responsible for developing and applying their own policies",

and that they must ensure equity of access, consider local circumstances and ensure that schemes are patient centred. The submission highlights that, when a patient is eligible for assistance with travel costs, claims will be settled in one to two weeks. Health boards can also make bookings on behalf of eligible patients, and where there is a need for travel, assist them in identifying and accessing available assistance.

Importantly, the Scottish Government states that it plans to take forward a comprehensive review of those arrangements. I think that we got quite a comprehensive response to the issue that we were pursuing.

Bill Kidd: Yes, we did. I do not know that we can do much more, other than write to the Scottish Government to ask where we stand in relation to aid for those families who require it. I know that the issue has been talked about and is being worked out, but we need to know where we are now. That is important to find out for many families.

The Convener: Would you like to keep the petition open or to close it with that action in place?

Bill Kidd: I think that we should close it with that action in place. We cannot do any more than that, but we should take that step.

The Convener: I am happy to do that.

David Torrance: We should close the petition under rule 15.7 of standing orders, but I ask that the Scottish Government engages with the petitioner to understand the difficulties of claiming back expenses and feeds those experiences into the review.

The Convener: That is fine. Bill Kidd, for clarity, in relation to the current position, what would you like the Scottish Government to articulate further?

Bill Kidd: I go back to what my colleague David Torrance said: we should ask the Scottish Government to speak directly to the petitioner to find out where the problems are in order to address them.

The Convener: That makes sense; we can try to facilitate that. It is clear that there is an expectation that that should be happening, but the petitioner and possibly others feel that that has not been their experience.

Do members agree to go back to the Scottish Government on those terms?

Members *indicated agreement.*

New Petitions

Detainees in Custody (Access to Medication) (PE1900)

10:47

The Convener: Item 2 is consideration of new petitions. For those who are watching, and for petitioners who might be following proceedings, before we consider these petitions for the first time orally at the committee, we have sought the views of the Scottish Government, and in some instances other submissions have also been received, which allows us to have informed discussions ahead of consideration of the petitions.

The first new petition, PE1900, which has been lodged by Kevin John Lawson, calls on the Scottish Parliament to urge the Scottish Government to ensure that all detainees in police custody can access their prescribed medication, including methadone, in line with existing relevant operational procedures and guidance.

In its submission, the Scottish Government confirms strongly that it considers that

“fast and appropriate access to treatment including all forms of opiate substitution is important.”

It highlights its new national mission to reduce drug deaths and harms and the medication-assisted treatment standards that ministers are committed to embed by April 2022. The Government confirms that it has sought assurances from the Scottish health in custody network that opioid substitution therapy is being provided to people in custody across Scotland, and it goes on to state that once the medication-assisted treatment standards are fully embedded, it will monitor provision in the NHS Grampian area.

In his submission, the petitioner suggests that there is a contradiction between what official guidance states must happen to detainees in custody in relation to prescribed medication and what is actually happening. He asks that an inquiry is launched to look into the death in custody of detainees who, in the petitioner’s opinion, were

“medically triaged by unqualified police staff.”

Do colleagues have any comments?

I read the petition with a great deal of concern, but I then read the Scottish Government’s submission. It was a strong response that sought to assure us that the practice in place is to the contrary. The weakness in it is that no register is kept that can substantiate the fact, so we do not know how many requests for prescribed medications have been received, nor do we have

confirmation of how those requests were dealt with.

Although I am reassured by the Scottish Government’s commitment that detainees should be able to access their medication, I am slightly unnerved by the fact that we are unable to demonstrate that that is the case. I wonder whether the absence of any formal record of requests received or prescriptions issued is entirely as it should be.

Do any colleagues have a view?

Alexander Stewart: You hit the nail on the head when you talked about the duty of care. There is a duty of care for individuals who are detained, and it is a concern that the Government has no data to show us that that duty has been exercised. You would assume that, if they are detained in police custody, individuals who required such support would receive it, but if we do not have any data to prove that that is the case, there is dubiety about the process. More clarity is required about what the Government intends to put in place if nothing is in place already.

Paul Sweeney: I share the concern that the monitoring processes are not sufficiently mature. The Government’s submission might be sincere, but if the Government is not connected to what is going on in a custody suite in Scotland at any particular time, how would it know any different? The petition has highlighted a blind spot in its monitoring procedures and it is well worth further investigation.

The Convener: That is without casting aspersions on anybody. We simply cannot substantiate the point. Nobody can.

Are we minded to keep the petition open, to write to the Scottish Government further on monitoring—that is the key issue that arises from the petition—and to ask how, in the absence of monitoring, it can be assured that we have in place the provisions that are required?

Paul Sweeney: It might be worth seeking submissions from relevant charities that operate in drug treatment, such as Transform. I am sure that the clerks could come up with a potential list of charities from which it might be worth inviting responses.

The Convener: That might get us some further evidence one way or the other on what is actually happening. That is a good suggestion.

Are we content to do as suggested?

Members indicated agreement.

Scottish Parliament Electoral System (PE1901)

The Convener: The next petition is PE1901, on replacing the voting system for the Scottish Parliament with a more proportional alternative. It was submitted by Richard Wood, who invites us to consider the issue from a different perspective yet again. It is always open to discussion. The petition calls on the Scottish Parliament to urge the Scottish Government to replace the broadly proportional additional member system that is used for electing MSPs with a more proportional alternative.

The Scottish Parliament information centre briefing sets out two examples of proportional voting systems. The first is the single transferable vote, which uses multiple-member electoral districts or regions with each voter ranking preferred candidates on a single ballot. Scottish local elections take place by STV. The second is open-list proportional representation. It is a variant of party-list proportional representation in which voters have influence over the preference order of party candidates. With regard to STV, the briefing notes a concern

“that candidates nearer the top of the list”

on the ballot paper

“are more likely to selected.”

The Scottish Government submission advises that the Government

“does not currently have any plans to propose changes to the voting system by which MSPs are elected to the Scottish Parliament.”

David Torrance: I do not know whether there is any appetite from any of the political parties or the Government to change the voting system, but I think that we should write to the key stakeholders—the Electoral Reform Society Scotland and the Electoral Commission—to seek their views on what the petitioner is asking for.

The Convener: I think that we are content to do that. The Scottish Government’s position is quite clear, but it would be useful for us to have a current litmus test of the views of those other organisations in the current circumstances.

Paul Sweeney: I am sympathetic, because it is an on-going and worthwhile discussion. In the 1990s, the Scottish Constitutional Convention established the additional member system as the preferred electoral system, but perhaps there is an on-going need to consider alternatives. Obviously, the single transferable vote for local government elections was introduced in the mid-2000s. There have been observations of concerning practices in the most recent Scottish Parliament elections; most notably, the Greens were perhaps stymied in some instances by a decoy green party, which

was higher up the list and seduced votes away from the Greens. I certainly noticed that at the Glasgow count, so there are flaws with the current list structure of two ballots, which are worth further investigation.

The Convener: Indeed. I am sure that my party has been subject to that discretion as well, but we prevailed.

Bill Kidd: I remember what Paul Sweeney was talking about. In order to avoid the mild embarrassment that might take place if Alasdair Aardvark gets elected in front of the rest of us, we should look at that.

The Convener: Splendid. The capacity of politicians for a bit of political self-flagellation never dims, so we will ask the various electoral authorities for their views on how we might suitably be re-elected under different methods. Notwithstanding the Scottish Government’s lack of appetite, we will take the matter forward and consider it afresh, so we will keep the petition open on that basis.

Members indicated agreement.

Community Participation Requests (Appeal Process) (PE1902)

The Convener: The next petition is PE1902, on an appeal process for community participation requests. The note on the petition is quite long but, as if to prove my earlier point, we are joined again by Rhoda Grant, who was not necessarily expecting to be with us this morning. I am pleased that she is here, because it means that I now do not have to read out what would have been her written submission if she had not joined us.

The petition, which was lodged by Maria Aitken on behalf of Caithness Health Action Team, calls on the Scottish Parliament to urge the Scottish Government to allow an appeal process for community participation requests under the Community Empowerment (Scotland) Act 2015. The 2015 act was intended to encourage and support community involvement and participation in public services. Part 3 of the act introduces the right to participation requests, which aim to ensure engagement and dialogue between community participation bodies.

The right to appeal decisions on participation requests was examined by the Local Government and Communities Committee during its post-legislative scrutiny of the 2015 act, and a recommendation in relation to an appeals process was made in the committee’s final report.

A three-year evaluation of the operation of participation requests was published in April 2020 and concluded:

“Given the significant challenges to introducing an appeals process and in ensuring its fairness and robustness, alongside the very small numbers of participation requests completed using the legislation, this is likely to be a longer-term piece of work.”

The Scottish Government submission notes that the Scottish Community Development Centre has been asked to explore what an appeals process might look like and that the centre will report its findings later this year. I am delighted to ask Rhoda Grant to speak in support of the petition.

11:00

Rhoda Grant: Thank you for allowing me in again to comment on this petition.

I meet CHAT quite regularly, and in July, it raised the issue of community participation with me. The group had contacted NHS Highland, but the health board refused to recognise it as a constituted community-controlled body. I believe that the group is controlled by the community and that it needs to be recognised as such. It has a constitution, which sets out that it is community led, and it holds regular annual general meetings and regularly meets the community that it represents.

I have taken the matter up with NHS Highland on the group’s behalf, but it is not changing its position. As there is no appeals process, CHAT has no chance to debate its case with someone from outwith the organisation.

Members of the public regularly contact CHAT to ask for its assistance and to advise it of issues that they have faced, and, to be honest, I think that that often puts it at odds with NHS Highland. Nevertheless, I believe that it fulfils an important role in the community. It is keen for the health authority to engage with its members before any action is taken up in Caithness; in fact, the team has given me examples of issues on which there has been no consultation at all. For instance, a midwife-led maternity unit that was introduced resulted in a 200-mile round trip to Raigmore hospital for pregnant at-risk women.

I agree that people in Caithness are victims of the centralisation of healthcare services and that rural areas are being left out of the decision-making process. An appeals process would let the team question the ruling of any public body, and I support its introduction sooner rather than later. I would also say that NHS Highland’s out-of-hand dismissal of an appeal on this matter is wrong, and an appeals process would at least give the team the right to call such decisions into question. At any rate, I think that the board’s approach is questionable.

The Convener: Thank you very much. Do colleagues have any comments?

David Torrance: I think that we should keep the petition open and write to the Scottish Community Development Centre for an update on its work on exploring what an appeals process for community participation requests might look like and when it expects to conclude that work.

The Convener: I do not mean to generalise, but my experience with health boards, particularly those with no such appeals processes, is that a determination is made and anyone who then tries to pursue any alternatives meets a blank wall. The absence of an appeals process in this case is a failing, because, with the example that Rhoda Grant has expressed an interest in, a subjective view seems to have been taken with regard to excluding this body, and that is that—even though it is, as Ms Grant seems to be saying, the body that local people are using to try to make these kinds of representations.

Alexander Stewart: There is no doubt that there is a gap here, given all the talk about engagement, dialogue and community participation, and Rhoda Grant has made quite a strong case with regard to this specific issue. I suggest, therefore, that we continue with the petition so that we get more clarity to understand and assess the procedure involved and to ensure that what should be taking place in this health board is actually taking place.

The Convener: A recurring theme of this morning’s meeting seems to be the need to ensure that requests for appeals are recorded and the outcomes monitored, given that the same issue arose in a previous petition.

Do members agree to keep the petition open?

Members indicated agreement.

The Convener: We will, in the first instance, try to get some idea of the timeline for the work on developing an appeals process, as we would not want that to be open ended.

Vaccination Passports (PE1908)

The Convener: Our final new petition is PE1908, which has been submitted by Jeff Bell. The petition calls on the Scottish Parliament to urge the Scottish Government to regularly review the impact of vaccination passport regulations, following their implementation, and to provide data on how they are being used and any benefits that they bring.

The committee has received a late submission from the Scottish Government on the petition. It highlights the scheme’s objectives, which are to reduce the risk of transmission of coronavirus; to reduce the risk of serious illness and death, thereby alleviating current and future pressure on the national health service; to allow higher risk

settings to continue to operate as an alternative to closure or more restrictive measures; and to increase vaccination uptake.

The submission also explains that the requirement for Scottish ministers to review the regulations every 21 days is written into the legislation and that the regulations should

“only remain in place whilst they are necessary and proportionate ... Ministers look at a range of data to determine whether the regulations continue to be required.”

Moreover, the Scottish Government confirms its commitment

“to monitoring the impact of certification”

and is collecting data in order to understand fully the scheme’s effects and implementation.

It is worth noting that the Scottish Parliament’s COVID-19 Recovery Committee regularly scrutinises the Scottish Government’s response to the Covid-19 pandemic, including in relation to vaccination passport regulations. The committee is also conducting a short inquiry that includes a review of the use of the scheme.

In the light of all that, do colleagues have any comments?

David Torrance: Given that ministers will be reviewing the matter every 21 days, the First Minister updates us every week in Parliament and the COVID-19 Recovery Committee takes evidence from ministers every two weeks and is carrying out an inquiry into vaccination passports, I think that we can close the petition under rule 15.7 of standing orders.

The Convener: I am minded to agree with you and am supportive of your proposal, particularly in the light of the COVID-19 Recovery Committee’s inquiry on the matter. We could let that committee know that we have received this petition on the scheme. Of course, we would not be referring the petition to that committee—we would only be advising that we had received and closed it.

That brings us to the end of our formal business. I thank everyone very much.

Meeting closed at 11:06.

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The deadline for corrections to this edition is:

Tuesday 21 December 2021

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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