



OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 8 February 2023

Session 6



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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE
2nd Meeting 2023, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Fergus Ewing (Inverness and Nairn) (SNP)

*Carol Mochan (South Scotland) (Lab)

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

*attended

THE FOLLOWING ALSO ATTENDED:

Desmond Barr (Friends of Hawkhead Cemetery)

Nicola Brigden (Evusheld for the UK)

Rhoda Grant (Highlands and Islands) (Lab)

Mark Oakley (Evusheld for the UK)

Paul O'Kane (West Scotland) (Lab)

Councillor Andrew Stuart Wood (Friends of Hawkhead Cemetery)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament
**Citizen Participation and Public
Petitions Committee**

Wednesday 8 February 2023

[The Convener opened the meeting at 09:31]

Interests

The Convener (Jackson Carlaw): Good morning, and welcome to the second meeting of the Citizen Participation and Public Petitions Committee of 2023. Since last we met, we sadly have lost the services of Paul Sweeney MSP, who has been with the committee since the start of the current session of Parliament. I place on record my thanks to Paul. He was a very proactive member of the committee and I very much enjoyed his insights and sometimes—I suppose he would not mind me saying—out-of-left-field thinking in response to some of the petitions.

I am absolutely delighted to welcome Carol Mochan to the committee in Paul's place. Carol has been with us before as a substitute, but now joins us as a full member of the committee. Although, in that capacity, she made a declaration of interests, just for completeness' sake, and for the record, I invite her to do so again this morning.

Carol Mochan (South Scotland) (Lab): It is good to join the committee. I will pass on your best wishes to Paul. I have nothing to declare at this time.

**Decision on Taking Business in
Private**

09:32

The Convener: That brings us to item 2, which simply involves my asking members to agree to take item 5 in private. Are members content for us so to do?

Members *indicated agreement.*

Continued Petitions

09:33

Cemeteries (Local Authority Actions) (PE1941)

The Convener: That brings us to item 3, which is consideration of continued petitions. We have two continued petitions on which we intend to hear evidence. The first is petition PE1941, on stopping destruction of headstones in community cemeteries, which was lodged by Councillor Andrew Stuart Wood. The petition calls on the Scottish Parliament to urge the Scottish Government to monitor and regulate actions that are taken by local authorities when undertaking their statutory duty of ensuring health and safety within our cemeteries.

We are joined this morning by the petitioner, Councillor Andrew Stuart Wood, and by Desmond Barr from the Friends of Hawkhead Cemetery. Good morning to you both. Thank you for coming to give us evidence on this petition. We are also joined by Paul O'Kane MSP, who will be sharing his comments and reflections once we have heard from our witnesses.

Members have a number of questions that they would like to explore. Is there anything either of you would like to say in advance of members kicking off, or are you happy for us just to move to questions?

Councillor Andrew Wood (Friends of Hawkhead Cemetery): I would just like to thank you for allowing the petition to come here and for asking to hear from us. I have in my possession photographs from which you can, if you would like me to share them with you, get a flavour of what has been happening. Is that acceptable, convener?

The Convener: Yes. Are the photographs in hard copy or digital?

Councillor Wood: Look at my age. *[Laughter.]*

The Convener: I assume that that is to suggest that they are hard copies, but I do not like to presume. If you could pass the photographs to the clerks, that would be helpful. We had a recent inquiry into natural woodlands, and photographs were very helpful to the committee in understanding the issue. Of course, sadly, we have all from time to time had to visit cemeteries, so we are from our own experience, aware of some of the issues.

I will ask a question to try to set the discussion in context. As I said, in the past few years we will all probably have had occasion to visit a cemetery, and not necessarily one with which we would be

familiar. That said, I am familiar with the cemetery with which you are concerned. The natural question that occurred to me in visiting it on my own account is this: has this started to happen recently? I presume that maintenance of cemeteries and graveyards will historically have been an issue that has had to be handled and progressed. Is it the case that the golden age of established upright headstones was so long ago that the infrastructure of those headstones is now showing its age, and the headstones are sinking or falling? What do you think has happened, in this context, to make the issue of greater public concern now than it has been?

Councillor Wood: I think that the issue stems from a knee-jerk reaction to the unfortunate death of a young lad in Glasgow. Following that, the Scottish Government put out very good guidance on health and safety in graveyards. Council budgets are squeezed so tight that they want to deal with the issue in the most cost-effective long-term way that will see as small a cost as possible being incurred. In doing that, Dumfries and Galloway Council, certainly initially, did not follow the Scottish Government guidance, which is why we are where we are.

The situation has been on-going for some 18 months. I put forward a motion to Dumfries and Galloway Council at one of its full council meetings and we got a respite, during which the council went back to look at what it was doing right and what it was doing wrong. It took on board everything that I said about the guidance that was set out and has made some improvements. However, as I say, now, 18 months after the situation began, it is talking about resuming working as it was before.

The Scottish Government guidance clearly states that every headstone should be treated individually and should have its own file. However, to date that has not happened. We are concerned about the contractor that is undertaking the work and about the training and certification of competence to carry out that work. My sources tell me that certification is in-house and is not a nationally recognised accreditation.

That just gives you a—

The Convener: That does not explain to me how stones and lairs were maintained historically. What has changed? Have family lines simply run out, or are people now much more transient and have moved away, so there is nobody left to accept responsibility for such things? Is it that families have inherited the responsibility for maintenance of headstones, which is now quite a costly exercise? I understand that there was a fatality, but was that the first time that that had happened? Had headstones not been toppling over before that, or was it that there was a fatality

that brought it forward as something that is of considerable public concern, which led the Government to introduce regulations?

Councillor Wood: Yes—it was because there was a fatality. Subsequently, the Government brought forward guidance and wanted action to be taken by local authorities. That is what has happened. To date, all the owners of lairs have assumed that their headstones were in fit order and saw no reason to doubt the quality of the structure. A lot of the headstones that have been dismantled have been dismantled for no just cause because modern headstones have, I think, 9-inch pins that go from the base up into the headstone. There is no way that they can fall over: that is the view of a recognised undertaker.

The Convener: Are those steel rods?

Councillor Wood: Yes.

That leads me to the other part of the issue. Dumfries and Galloway Council removed headstones and left the steel rods sticking up, even though the measures are supposed to be to do with health and safety. I brought that issue to the attention of the council, which then cut the steel rods off, which means that, if somebody wants to put the headstone back correctly, there will be an additional cost. If the council had been smart, it would have assessed the cost of maintenance of headstones and would have found that there would have been very little additional cost in making things right by lifting a headstone off and using sealant to secure it and stop it wobbling.

The Convener: What should be the main consideration for a local authority in considering whether memorials are safe? What should be the criteria based on which they set that standard?

Councillor Wood: Consideration should be exactly as the Scottish Government guidance sets out. A professional person should undertake the test from the word go. If a flaw or fault is identified, that should be brought to the attention of the lair owner—if the lair owner can be found because, as you rightly pointed out, some are no longer known. Dumfries and Galloway Council could also have consulted community councils, which know many of the families within their areas, but it did not. It could also have contacted elected members, but it never bothered to do that, either.

The Convener: Forgive me—I do not know a lot about this—but is a routine test done? Is there an inspection?

Councillor Wood: Yes—although I do not, to be fair, know what the routine is.

The Convener: So, it is not done by exception; a cemetery would be assessed by somebody who goes around and identifies issues. In some cases,

it seems that a blanket approach has been taken and they have just knocked all the headstones flat. However, it should be that the council establishes, on a bespoke basis, what is necessary on a particular plot.

Councillor Wood: You are absolutely correct.

David Torrance (Kirkcaldy) (SNP): Good morning, everyone. Councils have various ways of dealing with unsafe memorials. What good practice would you like to see from councils?

Councillor Wood: I would like to see proper auditing. I would like an independent auditor to check that local authorities have followed the guidance that the Government has set out. I would also like proper monitoring of the policies of every local authority. Furthermore, because of the damage that has taken place to date, I ask for the restoration of all works done to date, because the guidance has clearly not been followed. People have breached a B-listed cemetery by going into it without having permission from their own planning department. I find that to be totally unacceptable.

The Convener: Maybe Desmond Barr would like to say something. I apologise for not bringing you in sooner. Please just flag up at any time that you want to contribute.

Desmond Barr (Friends of Hawkhead Cemetery): Thanks very much, convener. I, too, thank the committee for allowing us to be here to speak about the subject.

Renfrewshire Council's overall view is very much in line with the guidelines that were produced. They were in the first instance produced on the recommendation of the sheriff who held the fatal accident inquiry. As Andrew Stuart Wood has said, one of the recommendations was that the Scottish Government should produce guidelines.

09:45

Renfrewshire Council put a lot of consideration into what would happen and how it would monitor the situation with regard to headstones. It put in a five-year rolling programme, which continues to this day—it started in 2020. Obviously, we then went into the pandemic and the programme was suspended. The programme was started again on a smaller scale probably around 18 months ago, and has now rolled fairly rapidly around all nine cemeteries that Renfrewshire Council is responsible for—not just Hawkhead cemetery—and other burial grounds.

Our biggest concern is about anxiety, anguish and distress—people have used many adjectives to describe their feelings to me. It is most distressing for people to turn up to visit a grave and see the headstone lying flat. People simply cannot believe that that has happened to a

member of their family and they have not had any direct communication from the council.

Signs are placed within the cemetery, but none of the signs has been permanent. They are A-boards that the council tends to move around. There are a couple of them at the entrance to the cemetery. However, anybody who knows Hawkhead cemetery knows that, if you are driving in, you have to drive in immediately and go past everything because the road is busy. Communication should definitely be considered.

When work has been completed, the grave is staked. There is an advisory notice to say that the headstone has had work carried out on it to review safety. If the headstone has been dropped, there will be a second advisory notice to say that it had to come down because it was unsafe.

We would like a first advisory notice that is a stake in the ground at the headstone with a notice that says that the site will be subject to review in the next six weeks, for example. That would give people the opportunity to get in touch with the council or their own memorial mason to see whether work is required, rather than the headstone being dropped and them being distressed.

David Torrance: On the point about communication, surely there must be records of the people who have the plots whom the council could contact.

Desmond Barr: In its recommendation to the policy board, Renfrewshire Council stated clearly that it is not able to contact the current lair holders. I can probably accept that in terms of going back in time; the cemetery opened in 1891, so we accept that there will be no record of the holder in most cases. However, the modern-day records exist. Renfrewshire Council should be praised for the fact that it maintains them. The biggest concern relates to not using them. If somebody's parent died when they were young and they are now in their 60s or 70s, we accept that the lair will be around 70 years old. However, people have come to us with cases in which the lair is only 12 years old. It is clear, as Andrew Stuart Wood has said, that that work was not completed properly.

We have written to the council again to ask it more about prevention and about whether trading standards officers are monitoring new headstones and are monitoring the work that has been done. Obviously, people are now encountering quite high costs—it costs £600 and upwards for a headstone to be put up.

Councillor Wood: A lot of records relating to headstones and ownership can be found with undertakers and stonemasons. Councils also have records. There is no lack of records. Some headstones go back to the 18th and 19th

centuries, however, so it is clear that it is difficult to get records for them.

I will pick up on what Desmond Barr said about communication. There were two headstones on the graves of veterans in the Sanquhar graveyard. They have been restored because people are not supposed to touch or damage them in any way. However, the council did not even bother to contact the Commonwealth War Graves Commission about that. That was another failing on its part.

I emphasise that this is not just about the Sanquhar graveyard. I am here because, since I started on the issue, I have been contacted by people from throughout Scotland. I have heard about the same destruction taking place in either Orkney or Shetland, but the council there quite rightly restored the damage that had been done.

I think that one of the photos that has gone around the committee—the photocopied one—shows a graveyard in Peebles that a chap from Peebles contacted me about. All the headstones were made out of sandstone. As most members will know, if sandstone is left lying on the ground with water sitting in all the inscribing, frost will blow the inscribing. It defaces everything.

The Convener: The committee considered having the Convention of Scottish Local Authorities with us this morning. However, we will probably ask it to respond to issues that arise from the petition.

David Torrance: The practices of laying headstones down flat and digging trenches around them have been heavily criticised. Is it feasible to ban or restrict those practices?

Councillor Wood: I am sorry, but I missed that.

David Torrance: Is it feasible to ban or restrict the practices of laying headstones down flat and digging trenches around them?

Councillor Wood: I see no reason why not, if that is the policy. There could be alteration of the Scottish Government's guidance. It could state quite clearly that it does not want headstones to be destroyed in any manner.

The Convener: I suppose that there could be a dangerous headstone. Depending on the complexity or style of the particular memorial, it could be dangerous. Dealing with it could also be a very costly undertaking and not necessarily something that the council will immediately think it can accommodate.

Councillor Wood: I will let Desmond Barr in. I will come in after him.

Desmond Barr: This all results from the death in Craigton cemetery. That incident involved a headstone that was just under 7 feet tall and

weighed 2.5 tonnes. I am not talking about a normal headstone that we would see in a more modern cemetery. I accept that there are some large and very heavy stones in Hawkhead cemetery—I think that they would probably be considered to be memorials as opposed to headstones. Renfrewshire Council has a separate contractor for dealing with them; that has not been undertaken yet. The idea that headstones that are 2 feet high are being knocked down is—

The Convener: Can I cut in? In part, your concern is that a policy that was established as a consequence of a fatality from a headstone memorial that was some 7 feet tall and of heavy construction has led to regulations being applied now to much smaller and, frankly, less dangerous headstones, and in a highly destructive way without notice. That is causing distress and is causing sometimes irreparable damage to the stones themselves.

Alexander Stewart (Mid Scotland and Fife) (Con): The witnesses have made some very valid points about where we are and how we have ended up in this situation. It is primarily health and safety considerations that have created this situation.

There are guidelines and standards, but what are your views on the Scottish Government introducing a national standard to ensure that processes are followed and that there is communication with families who have memorials? As you have explained, standards have been in place for one type of headstone, but they are now being used for something very different. If a national standard was introduced, would that be of benefit in resolving some of these situations?

Councillor Wood: Yes, that would be of great assistance. I want to make a point—this goes back to what the convener was talking about—about restoration of dangerous headstones. Councils also have to deal with dangerous buildings; they have a statutory obligation to ensure that buildings are safe. The same should apply to large memorials. I have a large memorial in my ward—the Grierson of Lag memorial—and I have been on to the council to repair it. I would classify it as being extremely dangerous, but the council has gone ahead and taken down gravestones that might not be much more than 10 years old.

Alexander Stewart: That is the issue. There are historical headstones that have stayed where they are for generations; there has been very little movement in any way, shape or form. However, there are more modern ones that are much more at risk of being targeted and knocked down. That becomes a problem.

Councillor Wood: There is also a commercial issue. If a contractor is going into a graveyard and

is getting paid per headstone, what do you think the contractor might do? I will leave that in your hands.

Alexander Stewart: I go back to my original question about the Scottish Government introducing a national standard to try to placate people about some working practices. As you have identified, this is taking place not just within your council area but across a number of graveyards in various locations at different times.

Councillor Wood: I do not know what Desmond Barr's position is, but I totally agree that there should be a national standard. I am asking for a halt to all such works and that, as an interim measure, headstones that appear to be unsafe should just be staked.

Desmond Barr: I printed out a summary of the replies from local authorities that you posted. A number of local authorities do not lie headstones flat on the ground. I think that two local authorities have suspended all works, as Andrew Stuart Wood has asked for, because of the distress that has been caused. After two years, we might have looked at the ones that could cause most danger. Renfrewshire Council has looked at the bigger headstones that might have been a danger if they fell. It is not for anybody to say, "We'll not classify that as a danger," but reason should be applied.

We endorse what has been suggested. The scheme should certainly be suspended until such time as the committee or Parliament has had a chance to review the guidance. We are two years down the line; I do not think that anybody realised what would happen and the distress that would be caused.

The Convener: Thank you for the photographs that you have given us. One shows a very good example of trenching, with a headstone literally having been halved. In essence, a hole has been dug, the stone has been inserted in that hole and all the details on the stone of the recently deceased person are buried beneath the ground—along with, unfortunately, the deceased—so one no longer has any idea whom the stone is commemorating. It looks quite crass.

10:00

Carol Mochan: I am interested in whether the witnesses have specific recommendations from the groups to which they have spoken. Are there two or three specific points that everybody agrees would be helpful?

Desmond Barr: In the first instance, there should be better communication. I am thinking about the person who turns up and sees a headstone laid flat. We accept that there are signs up but, as with everything in life, people think that

they apply to somebody else; they do not think that they apply to them because they are there every week or every month and see the headstone standing.

We accept that some headstones might be cause for concern and that health and safety policies are necessary. We do not want to kid on that there are no issues, but prevention is probably the biggest issue. In relation to communication, it is important that we utilise the records that we have, especially when they are up to date, and that we invite people to ensure that the records are as accurate as possible.

Councillor Wood: A constituent of mine asked why, when headstones are erected, a plan is not put in place whereby the family continues to contribute a set amount for maintenance of the headstone. Another suggestion was that people could take out insurance on a headstone so that, if it had to be repaired, the insurer would pick up the tab. There are lots of options.

David Torrance: I am looking at the size of the metal rods in the pictures. Mr Barr, how hard would it be for a headstone to fall over if the rods had been inserted but the cement base had still gone round a bit?

Desmond Barr: The straightforward answer is that we look fortnightly at maintenance of the cemetery in relation to grass cutting, for example. Most of that is now done by vehicular machinery. There is quite a considerable amount of movement across the ground, and the headstones are standing after that. We have questioned the design of the headstones. Andrew Stuart Wood touched on that. At the weekend, somebody said that they had gone back to their monumental mason after 12 years to say, "This was never constructed properly."

On the question about the effectiveness of the rods and the concrete that is used to secure them, that goes back to the local authority in relation to trading standards. There are a number of issues. It is not just that the headstone might be old; it might not have been put together properly in the first place. I hope that that answers your question. There are, obviously, other issues, but I do not think that it would be easy for a headstone to fall over if someone walked by it, brushed by it or fell on it.

David Torrance: It looks as though you would have to physically lift it out for it to come out. That is what I was trying to get at.

The Convener: Fergus Ewing, do you have any questions that you want to ask?

Fergus Ewing (Inverness and Nairn) (SNP): I do not, at the moment.

The Convener: Paul O'Kane, would you like to comment on what we have heard this morning?

Paul O'Kane (West Scotland) (Lab): Thank you, convener. I am very grateful to the committee for permitting me to attend this morning.

I have an interest in the matter as a result of meeting Mr Barr, who is a constituent, and taking some time to tour Hawkhead cemetery with him. I have seen at first hand the impact that the policy has had on many of the graves of people whose families are still living and visit the cemetery regularly. I am also very conscious of the work of "friends of" groups that care for cemeteries, which are, of course, very important places for people who have been bereaved.

From my 10 years as a local councillor, I am very aware of the challenges that Councillor Wood outlined. On the whole, councils are genuinely concerned about upkeep of our burial grounds and cemeteries to ensure that they are respectful and dignified places in which we can take pride.

However, councils have also been very conscious of the health and safety implications that arose from the tragic fatality at Craigton cemetery in Glasgow, although I feel that a blanket approach, rather than a more nuanced approach, has been taken. Councils are very keen to comply with guidance that is issued by the Government.

Councils are required to ensure that they stress test and monitor headstones, but the challenge for them often relates to finance. It can be very difficult for local authorities to maintain the standards that we would expect in cemeteries without additional burdens being placed on them, given the local government financial settlement.

I recognise much of what the petitioners have said about the blanket approach of laying stones on the ground not being the best way to proceed. That can lead to bereaved families coming to a grave and finding that their stone has been lowered. There is a lack of communication, and communities in different areas interpret the guidance in different ways. That causes great distress.

It is clear to me that there is a cost impact, so we have to look at how we properly fund local government to do the more detailed and considered work that Mr Torrance referred to.

From a public health angle, I asked Maree Todd, the Minister for Public Health, Women's Health and Sport, in a written question, whether there was any intention to provide a fund for local authorities to access in order that they can deliver what Mr Barr described as a rolling programme of making historical stones and larger stones safe. Unfortunately, the Government said in its response that there are no plans to provide such a

fund. That might be useful information for the committee.

I am concerned that the issue is not just for local authorities. We have a number of private cemeteries in Scotland. Across the country, the Roman Catholic Church, the Jewish community and the Muslim community maintain their own cemeteries. For example, St Conval's cemetery in Barrhead—one of the largest Catholic cemeteries in the country—is in my region. There might be cost implications, so we have to consider how the costs will be borne not only by local authorities but by religious groups.

If the Government wants councils to meet their obligations, it needs to be clearer about what the national standards should be. It is clear that the current blanket approach is not working. The Government has to provide funding for councils to maintain our cemeteries with the dignity and respect that we would all hope for.

The Convener: The evidence session has been very helpful. Are colleagues content for us to reflect on the evidence that we have heard and consider it at a future meeting of the committee?

Members indicated agreement.

The Convener: I thank both witnesses very much for taking the time to join us this morning. Your evidence has been very helpful for our consideration of the petition. I also thank Paul O'Kane for joining us.

Councillor Wood: Can I ask that I get the photos back, if you do not mind?

I will make a final point. This is a very emotional issue for families, but it also reflects on Scotland as a nation. Do we want to lose our heritage, our history and our culture by damaging such places? There are also what I believe are called graveyard warriors, who come from abroad to find their families in Scotland. I do not want that to be lost, and I am sure that you do not want that, either.

The Convener: Thank you very much. I will now suspend the meeting.

10:09

Meeting suspended.

10:13

On resuming—

Evusheld Antibody Treatment (PE1950)

The Convener: Our second petition, for which we will be joined by witnesses remotely, is PE1950, on ensuring that immunosuppressed people in Scotland can access the Evusheld antibody treatment. The petition, which was

lodged by Alex Marshall, calls on the Scottish Parliament to urge the Scottish Government to enable access, via the national health service, to the Evusheld prophylactic treatment for people who have a zero or weak response to the Covid-19 vaccines.

We previously considered the petition at our meeting on 9 November, when we agreed to write to various organisations and to invite the petitioner and representatives from the patient campaign group, Evusheld for the UK, to provide evidence to the committee. Members will have noted in our papers for today's meeting that the petitioner, Alex Marshall, has declined the opportunity to provide evidence or pursue the petition further, as he feels that the emergence of new Covid-19 variants has rendered the Evusheld treatment ineffective.

I note that the committee has now received responses from the Scottish Medicines Consortium, Immunodeficiency UK, Blood Cancer UK and Kidney Research UK.

Despite the unusual circumstances in which we find ourselves and the fact that the pandemic has moved on, there are issues that the committee wishes to explore. I am pleased to welcome Mark Oakley and Nikola Brigden, who are from Evusheld for the UK. Good morning to you both.

We move straight to questions. Please raise a hand or put an R in the chat function—that is the usual way. The clerks are monitoring that and will ensure that we know when you would like to come in and contribute. I move straight to my colleague David Torrance.

10:15

David Torrance: Good morning. How do the witnesses respond to the assertion that Evusheld is not so effective against the omicron variant of the virus?

The Convener: Perhaps you can decide who will answer first.

David Torrance: I will ask Mark Oakley first.

Mark Oakley (Evusheld for the UK): We are certainly in an ever-changing position with the virus. At the moment in the United Kingdom, Evusheld is still effective—it is not effective against all variants, but it is still giving some level of protection. We are in the situation in which some—[*Inaudible.*—]immunocompromised have not had any protection. I am one of those people. If you told me that I could take something that would give me 10 per cent protection, I would take that hand over fist.

At the moment, the United States has temporarily suspended Evusheld because of the variant mix there, but it is looking to bring it back

once the variant mix changes again. It is still in use in all the European countries and the other 32 countries that are using it, although they are using it with the caveat that it is not a magic bullet and that people still need to take other precautions. Having had to shield for nigh on three years, I think that anybody who is immunocompromised is not stupid enough to take unnecessary risks.

David Torrance: Perhaps Nikola Brigden has something to add.

Nikola Brigden (Evusheld for the UK): Most of the studies that have been carried out on how Evusheld works against the new variants are in vitro—in test tubes—but we know from feedback from immunologists and people who we are in contact with abroad that Evusheld works a lot differently in the human body in the real world. It seems to be a lot more effective in that situation. We hear that the number of hospital admissions is down in other countries due to its use.

David Torrance: Thank you for that. Is there any real-world research being undertaken on Evusheld that could be considered by the National Institute for Health and Care Excellence to help to promote its use?

Mark Oakley: The honest answer is that I am not sure what studies are being undertaken abroad. Obviously, there have been a lot of studies. Globally, there is the veteran study in America, the one that was done in France by the Louis Pasteur institute and the Kertes study in Israel. They have all shown very good results against various variants.

David Torrance: Nikola Brigden, do you have anything to add?

Nikola Brigden: No—it is pretty much as Mark Oakley has said. There are new studies coming out all the time. As quickly as we can get hold of them, we submit them to the Government to give it the additional information.

The Convener: Given your experience—I now have some direct experience, as well—in what way did you find that the inability to access this particular treatment resulted in a different pathway through and out of the pandemic to that of other people? Clearly, bigger concerns still rested with people who are immunosuppressed, even as they saw everybody else acting more normally.

Mark Oakley: Picking up on the issue of moving out of the pandemic, which was one of the phrases that you just used, I note that people in this situation are still very much in the pandemic. People who have not been fortunate enough to fund the drug themselves, which is the vast majority of people, are still living the pandemic every day.

I was fortunate enough to be able to pay for the drug. I had it on 1 November. Up until that point, I was shielding—I was doing so for close to 1,000 days. It affects your family, and it affects your work. There are people who are still stuck in that situation—it is on-going. They are fearful, and they have no financial support. It is having a long-term mental effect on people. It is not a good situation, and they are still stuck in it, yet here we are trying to use a drug evaluation system outside of the pandemic instead of the one that we used for the vaccines and so on in order to get them approved quickly.

Come March, some people will be entering their fourth year of shielding. More drugs are being developed by companies such as AstraZeneca, but, if we carry on down the route of using the NICE process—the same system that has been used for Evusheld—with the amount of time that it takes, there will be people in this situation who will be going into five years of shielding. Those people and their families will be left in that position for nearly half a decade.

The Convener: I understand the point that you are making. As I said, I have some direct experience.

You said that you received the treatment in November. This is the contradiction that I want to try to understand: given the reservations that have been expressed by some jurisdictions about the treatment's effectiveness, has it given you confidence to act in a more complete way? I think that you said, "Even if it gives me 10 per cent additional benefit, that is 10 per cent additional benefit that I did not have". Is it the case that, although it might not give the sense of full and complete security that vaccination might give to other people, it nonetheless advances confidence among people who cannot have the vaccines but who could take Evusheld? Is it essentially that? On the back of taking it, have you felt more confident about acting in a way that is consistent with how you operated before?

Mark Oakley: Yes. There is a big change when you step out of the door for the first time and start going into shops and so on. From talking to others, I think that most people experienced that when they came out of the nationwide lockdowns. It takes a while to get used to it.

No one—not me, certainly, nor other people to whom I have spoken—in this position is foolish enough to put themselves at risk. However, Evusheld has allowed me to have more choice—to choose whether to go into shops that are quieter, or to go at quieter times of day, and to choose whether to do more normal activities such as going to a restaurant when it is not too busy. I can pick and choose and be careful; I can choose at what time I travel on public transport if I need to do

so. It is a balance, and I have to do things with other mitigations in mind in order to protect myself. At the moment, Evusheld will not give me 100 per cent protection, but neither would a vaccine provide that to anybody else.

Nikola Brigden: I will add to that by giving you a little background about my husband, Scott, who was diagnosed with mantle cell lymphoma at the age of 46 in 2021. It is quite a rare type of blood cancer. His prognosis is not great; they have said that he possibly has five years. Over the past two years, he has had to fight through chemotherapy treatments and have a stem cell transplant—he has really fought to stay alive—but there has also been the impact of having to shield and not be able to spend time with his loved ones. There has been an impact on our daughter, who is studying away at university, because she has had to stay away from us. There is a mental impact on families. Scott has not been able to see his mum and give her a hug.

Everybody who is immunocompromised has a similar situation. To have a life-changing diagnosis is hard enough without the mental impact of having to deal with shielding. It is one of the things that has gone unspoken: the huge impact on not just the people who are immunocompromised but on their immediate and wider families.

We speak to people every day who have fought so hard to stay alive but who say that they are at the point of giving up. Everybody needs a purpose in life, but they cannot go out and mix or even give their family members a hug. My husband had Evusheld on 2 November—about the same time as Mark Oakley—but we have not gone out and gone mad. It has meant that Scott could have time with his family on Christmas day and he could hug our daughter. It is about all the simple things that most people take for granted but that mean so much. That is why we are here today: to speak on behalf of so many people who feel so forgotten in this situation.

The Convener: I am grateful for that. Implicit in what you are saying is a sense among the community of those who are affected in this way that the lighthouse of public attention has maybe swung away and people who are in this position are left to cope on their own, without the same attention that there was when this was a much more general and widespread affliction that was being felt by a much wider community across the country. I appreciate and understand that.

To move away from anything that is so personal to you, do you have any knowledge of whether immunosuppressed people have disproportionately experienced morbidity as a result of the pandemic, or does the exceptional care that they are having to take make it difficult to

draw any statistical conclusion or evidence in that regard?

Mark Oakley: There is statistical evidence that has been gathered through the years of the pandemic that shows that the risk to people in this situation is that much higher. I say this off the top of my head, but I think that the higher risk of morbidity and a bad outcome is in the realms of the late 20s to early 30s, in percentage terms. That puts people in a difficult position, because it is a massive risk. Nobody wants to put themselves in that position. It is also having a knock-on effect on the health service.

We could be protecting, but we are not, the very people whom we do not want to be going into hospital, taking up beds and taking up the resources for an extended period of time, and that has a knock-on effect for every other appointment that has to be cancelled for people with cancer and so on, because those resources are being taken up. We should be taking the opportunity and doing everything that we can to stop those people going into hospital, but we are not.

The Convener: Various members of the committee have at different times served on the Parliament's health committee, so we are familiar with the commissioning process and the way in which these things progress. From time to time, we have all lodged questions to ministers about the availability of product and, of course, they have always deferred to NICE, the Scottish Medicines Consortium and the processes that are at play in that regard.

I suppose that ministers' argument would be that, were they to act by exception, that would be at the cost of diverting resource away from treatments that have been through the commissioning process and been recommended to them. What would you say to them, as ministers who have to come to decisions in relation to the commissioning authorities, in the face of that conundrum?

Mark Oakley: As I said before, the people in this position are still living the pandemic. We used much quicker systems for assessing these drugs and getting them into place during the pandemic than we have for Evusheld. You need only look at the most recent vaccine to be approved by the Government. It went through the Medicines and Healthcare products Regulatory Agency and was put into use within two months, on very limited testing. That is exactly right. That is what should happen in that situation. It is needed, and it needs to be assessed quickly. To put a drug like Evusheld through a prolonged process when so many people are affected by that is just wrong. It is unfathomable, to be honest, and it is cruel.

The Convener: I understand. Essentially, you feel that Evusheld should be the subject of the same emergency provisions as applied at the height of the pandemic, in order to accelerate consideration.

Alexander Stewart: Thank you for your comments so far. NICE has already done some appraisals and some technological outlook work to see what has been happening with the product in question. Are you aware of any other countries that are using Evusheld that have carried out appraisals or technological processes that are similar to those that are being undertaken by NICE?

10:30

Mark Oakley: It is being used in every G7 country. It is being used in 32 countries around the world. The European Medicines Agency sanctioned it. I understand from people we have spoken to that even Japan, which, normally, is notorious as being one of the slowest countries to recommend and implement use of drugs, has assessed it and brought it into use, yet here we are lagging behind. Worldwide, it is being used by a lot of countries.

Alexander Stewart: There was a health authority in one country—was it Ontario Health?—that had some issues with Evusheld. I think that Ontario Health would not recommend its being used routinely. Are you aware of any other countries that have withdrawn it or are having difficulty with it?

Mark Oakley: As I said earlier, the Food and Drug Administration in America has temporarily suspended its use. That is because of the make-up of the Covid variants there at present. However, the FDA has made it clear that the intention is, once the variant mix changes, to bring the drug back into use. It has told medical facilities not to get rid of their stocks of the drug so that it can be used again and rolled out.

The Convener: I acknowledge that many other countries moved very quickly at a point when the drug could have been introduced and we did not. I understand that NICE and the SMC were participants in a meeting that took place a fortnight ago, and that they are now talking about final guidance being produced in April. I suspect that there is not a lot that the committee will be able to do that will accelerate the process, but I understand everything that you are saying as to why the petition is there and why you think it should succeed.

The petition also brings home lessons that could be learned, because who knows what situation we might face again? It seems that, at one point, there was a process. That process has been

normalised back to existing practice and, therefore, people are struggling. This session has been very helpful to us in understanding the issues.

Fergus Ewing: Good morning. The information that has been provided to us suggests that around 650,000 people in the UK and around 80,000 in Scotland are immunosuppressed. We are advised that all those people are at high risk of serious illness or death. Obviously, we accept that this is an extremely serious matter that affects a great number of people.

Mark Oakley has mentioned a couple of times that people in this situation, who lack access to Evusheld, have been shielding. Do you have any hard evidence about how many or what proportion of the 80,000 or the 650,000 are actually shielding? As you have said, to have to shield for such a long time imposes an enormous strain—an unimaginable strain—on the individuals concerned. Nikola Brigden remarked upon that earlier. I might have missed this, but what I do not see is any evidence—if there is any; it might not be possible to obtain any—about how many of this group of people are still shielding and have been shielding for several years.

Mark Oakley: That is difficult to quantify. Even the figures on the number of people who are affected are from the NHS, and it is not entirely clear on its figures. Certainly, from our group's experience, the vast majority of our 3,000 members are either shielding or living a very restricted life, which involves being very careful about where they go and what they do, and not taking part in normal activities that members of the committee and the vast majority of the population do not think about any more—activities such as going to a pub and taking a train or a bus.

Judging by our group, it is still a high number of people. It must be remembered that, for every person who is immunocompromised and who is having to deal with this, in most cases there is at least one other family member who is also having to put their life on hold to some extent. We have had members who have lived separately from their family at various times. I lived away from my family for nearly nine months, on and off; at times, I lived in a summer house in the garden when the risks were difficult.

There are people who are not able to go to work. At a time when, nationally, the workforce is missing people, we have lots of examples of people who are having to make a choice between working and not working. We were contacted by a school teacher whose school had removed the mitigations to protect her. She was left with a stark choice of whether to carry on working and put herself at risk or whether to go back and shield. She has done the latter with no financial support.

It is an ever-changing picture and it is very difficult to quantify, but certainly a high number of people are having to live their lives in a really restricted way, which is extremely difficult, mentally, for them and their family.

Fergus Ewing: I appreciate everything that you have said. It is an extremely serious matter. Nikola, do you have anything to add?

Nikola Brigden: To pick up on what Mark said, there are lots of articles in the newspapers about the lost workforce. Where have all those skilled people gone? The immunocompromised represent so many people. My husband is a remotely operated vehicle pilot. The issue affects the whole spectrum of professions. People who could go back to work cannot because they are not safe.

The other important issue that we need to mention is that it is not just Evusheld that we are talking about. There is a lack of protections in place for the immunocompromised. If they catch Covid, access to treatment is very limited, with some types of drugs potentially being withdrawn, which is another worry. We know from the reports on the group that whether people can access treatment if they catch Covid is hit and miss. That adds another layer of worry for the people whom we represent. The whole system needs to be looked at.

The Convener: I thank both of you for being with us this morning. The committee very much appreciates the personal circumstance of both of you individually, which, unfortunately, is a variation on a theme that is extraordinarily difficult.

What you have told us has been very helpful. We will give urgent consideration to what, if anything, we can do that might be useful and will act accordingly, but thank you very much for giving evidence to us to allow us to consider the petition further.

Colleagues, are we content to consider the evidence that we have heard later in private?

Members *indicated agreement.*

The Convener: I suspend the meeting.

10:38

Meeting suspended.

10:41

On resuming—

Essential Tremor (Treatment) (PE1723)

The Convener: PE1723, which was lodged by Mary Ramsay, calls on the Scottish Parliament to urge the Scottish Government to raise awareness of essential tremor and to support the introduction

and use of a focused ultrasound scanner for treating people in Scotland who have the condition.

At our previous consideration of the petition, the committee agreed to write to the Scottish Government and the national specialist services committee on a number of outstanding issues. We have considered the petition on a number of occasions and we are quite engaged with it.

In response, the Scottish Government has provided information about the role, membership and operation of the national professional, patient and public reference group. The national services division has now responded to the committee, setting out the current service provision and how it operates with the national specialist services committee. The response states that, at the time of writing, no formal application for a national magnetic resonance-guided focused ultrasound service had been submitted by NHS Tayside.

We are joined for our discussion of the petition by Rhoda Grant. I ask her whether she would like to say anything before we consider the various representations that we have recently received.

Rhoda Grant (Highlands and Islands) (Lab):

Thank you, convener. I appreciate your allowing me to speak again on the petition. It is really disappointing that, since Mary Ramsay started her campaign, there is still no nationally recognised treatment centre for focused ultrasound in Scotland. In England, there are already two centres offering treatment on the NHS. Since Mary started her petition, we now have the facilities here, in Dundee, but we appear to have made little progress on making the treatment universally available on the NHS.

Scottish patients are being sent south and treated in England, which is difficult for them given the travel involved. It adds to their distress and their time away from home. It also adds a cost to the Scottish NHS. Some health boards are sending their patients to Dundee, because they know that the facility is there, but it would be much better if all health boards had a clear pathway to send people to Dundee.

I understand that an application has been submitted to the national services division—it has obviously crossed with its information to the committee—from NHS Tayside, which is looking to have the treatment adopted nationally. I am not clear when that will be considered and what the timeframe for it is, so could the committee raise that matter with the national services division and the Scottish Government? It would be good if we could pin them down as to when that will be considered, what the stages will be and a likely timeframe for them to reach a decision. It would also be useful to try to find out why the treatment

has been assessed as useful and is available in the rest of the UK but not here in Scotland.

10:45

Mary Ramsay asked me to say that she stands ready to give evidence to the committee. She believes that the committee should hear directly from people who are affected by essential tremor and the impact that it has on their lives.

We hope to have a drop-in event on 16 March at 1 pm in committee room 3. That is a plug, but I would like to extend an invitation to committee members, because Mary Ramsay will be there, along with other campaigners and people who have been treated for essential tremor by both treatments available and clinicians. That should be very informative, and you will be very welcome.

The Convener: Given that this is very much in connection with a petition that is open and under consideration, it is perfectly in order for the committee to actively promote that event. There will be an opportunity for committee members to drop in to meet Mary Ramsay and, in the first instance, to engage with that drop-in event, which I think would be a productive thing to do.

In your evidence, Rhoda, I think that you have taken us slightly further forward. Did I hear you say that an application has now been lodged—you assume—by NHS Tayside?

Rhoda Grant: Yes.

The Convener: I think that we might want to confirm that with NHS Tayside. Do members agree to that?

Members indicated agreement.

The Convener: The submissions that we have had have all been about how that might happen but, now that it has happened, we might want to know, from all those who have an active part in the resolution of the matter, about the timescale and likely progress of the application. Do members agree to that approach?

Members indicated agreement.

David Torrance: I am extremely disappointed by the progress that has been made on the petition, so could we ask whether there are any barriers that will prevent the application from progressing?

The Convener: I think that we are all disappointed, which is why the petition has stayed open. There seems to have been quite a curious bureaucratic process and almost obfuscation, given the opportunity and the benefit that there would clearly be to patients in Scotland. We heard how the alternative has been so disappointing historically.

I think that we want to try to clarify those points. I thank Rhoda Grant, because that has taken forward the committee's understanding of the current situation.

We will keep the petition open and write to the various organisations, including the Scottish Government, after confirming with NHS Tayside that the application has now been submitted.

Mental Health Services (PE1871)

The Convener: PE1871, which was lodged by Karen McKeown, calls on the Scottish Parliament to urge the Scottish Government to carry out a full review of mental health services in Scotland, to include the referral process; crisis support; risk assessments; safe plans; integrated services working together; first response support; and the support that is available to families affected by suicide.

Members will, of course, recall that we held evidence sessions on the petition with the petitioner, Karen McKeown, and the Cabinet Secretary for Health and Social Care at the end of last year. I thank Karen for coming forward at the time to give evidence to the committee on this difficult subject.

At the session with Karen, we heard about the importance of evaluating and reviewing how Scotland's mental health services perform, and the need for dedicated facilities for people waiting to get mental health support. Then, with the cabinet secretary, we discussed the broader policy context with a focus on the previous and current suicide prevention action plans. The committee also explored waiting times and new pilot services. They were both very enlightening and productive evidence sessions.

In the light of that, the submissions that we have received and the reflections that we have had, and having thought about the evidence, do members have any suggestions?

Alexander Stewart: I agree that the sessions were very informative, but it is now time to follow up on some of that information.

I suggest that we seek details of the 2018 suicide prevention action plan evaluation. It is important that we try to establish where we are and when the outcome framework for the new suicide prevention action plan will be published. It is also important to have specific information on mental health assessment units, including locations, funding, patient uptake and any expansion. We felt very strongly about that, and there is room for more detail on that and for it to be expanded. It would also be useful to have an update on whether the Scottish Government will

publish its response to the Scottish mental health law review before summer recess.

Those are some recommendations that I would make on the petition.

The Convener: In relation to the information on the mental health assessment units, it occurs to me that what is available in the public domain seems to be extraordinarily vague. I understand that there are now 13 of those units established, but there does not seem to be any public record of where they are or how they operate, or any more general information regarding them at all. It seems to be lacking the transparency that we would hope for and expect as part of our proper consideration of the actions that have been taken. I particularly want us to emphasise that point that you made, Mr Stewart.

Carol Mochan: I am very supportive of that point. A lot of constituents who contact us on this issue are very distressed. There is a lack of urgency in providing that information, which might give people direction and comfort. It is important that we are strong on the fact that we have had delay in this area for far too long.

The Convener: Colleagues, do we agree to the suggestions?

Members *indicated agreement.*

The Convener: I again thank Karen McKeown. We are keeping the petition open and we will be pursuing some of the issues arising out of the evidence sessions that we had with Karen and with the Cabinet Secretary for Health and Social Care.

Wind Farms (Community Shared Ownership) (PE1885)

The Convener: PE1885, which was lodged by Karen Murphy, calls on the Scottish Parliament to urge the Scottish Government to make community shared ownership a mandatory requirement to be offered as part of all planning proposals for wind farm developments.

Following the committee's evidence session with the Minister for Public Finance, Planning and Community Wealth, we followed up with the minister and the Cabinet Secretary for Net Zero, Energy and Transport on a number of points. The minister stated in his recent submission that local place plans have no role in encouraging shared community ownership through planning systems due to existing restrictions. However, planning authorities may be able to direct renewable energy businesses towards information about any known community aspirations for CSO. The minister has stated again that the Scottish Government has no powers to mandate CSO and highlights existing

support for communities that are considering CSO opportunities.

The petitioner's recent submission reiterates her suggestion that CSO could be mandated through raising a new tax, which would require all developers who do not own the lands to make a CSO offer in line with the good practice principles. An upcoming review of good practice principles has been highlighted by the cabinet secretary, who stated that a consultation on the draft guidance is planned for this year, and that the Scottish Government intends to build any relevant lessons from the petition into future updates to the equivalent guidance for onshore renewables.

In the light of that potential, there seems to be some progress. Do colleagues have any suggestions or comments on what we might do next?

Fergus Ewing: I have just a few observations. We last considered the petition on 29 June last year. Since then, in August, the petitioner made a further submission. The first point that I want to make is that, in that submission, the petitioner argues in some detail that the Scottish Government has power to mandate community ownership. I am not able to assess whether that view is correct or incorrect but, out of fairness and given that the petitioner has set out quite a lot of detail in the submission, we should at the very least put that to the Scottish Government. In other words, we should ask the Scottish Government whether it agrees with the petitioner's view and, if not, why not.

Secondly, in the letter that we sent after the previous evidence session—following suggestions that I think that I made—we asked whether the Scottish National Investment Bank, which after all exists to serve the purpose of promoting green schemes, might produce a tranche of funding that could be made available for communities. In the response that we have from the minister, he says:

"We are also working with the Scottish National Investment Bank ... to assess the pipeline of shared ownership".

That is not really what I asked. I asked whether the SNIB would provide a tranche of money, because it is a bank and it is supposed to operate on commercial terms. If it grants a loan to communities, there is a guaranteed income stream and, thereby, it is a lendable proposition based on a financial flow of income that could be used to repay the loans.

In the light of that, could we press the minister with regards to the petitioner's point that the Scottish Parliament has legal power to do this? Perhaps the petitioner is wrong, but I think that we owe it to the petitioner to follow up that point. Secondly, we should write directly to the SNIB to

ask whether it plans to make a tranche of money available and, if not, why not because this seems to be an ideal opportunity.

Lastly, convener, I would like to press the minister a bit further. Many moons ago, I was in his position as the energy minister and proactively worked with banks such as the Co-operative Bank, Close Brothers and Triodos Bank to ensure that they provided 90 or 95 per cent of loan funding, with the Scottish Government, through a renewables fund, providing the remaining 5 or 10 per cent. That worked extremely well.

I am sorry to go on at some length, but this is an important opportunity for communities in Scotland, and particularly in rural Scotland. We need to get on with this and there is a huge desire to do it. It is far better to own a stake than to get a cheque, or the so-called community benefit. The communities that have established community ownership have reaped a huge benefit, which has enabled them to help people in their community who are disadvantaged, or to help with kids' education or whatever they so choose.

I hope that members feel that those suggestions are worth pursuing rather than closing the petition today. My apologies to members who think otherwise.

The Convener: I think that Mr Torrance has been gazumped. Thank you very much for that, Mr Ewing. I think that the committee should take forward both those points, which were passionately and coherently argued. We will return to the minister to seek clarification, using the context of the submission that we have received, which appears to be quite detailed in respect of the petitioner's contradictory view.

Secondly, as Mr Ewing suggests, it would be good for us to ask the SNIB whether it plans to make money available and, if not, why not. Obviously, that would facilitate the kind of progress that the petitioner is looking for and, as Mr Ewing says, it ought to be within reach and achievable.

Fergus Ewing: I am always looking for a chance to agree.

The Convener: In some ways, if not in others.

Are we agreed with our colleague's suggestions?

Members indicated agreement.

Funded Early Learning and Childcare (PE1907)

The Convener: That brings us to petition PE1907, which was lodged by Claire Beats. The petition calls on the Scottish Parliament to urge the Scottish Government to provide funded early

learning and childcare for all two-year-olds, removing eligibility criteria for access to services.

We last considered this petition on 26 October. At that point, we agreed to write to the Scottish Government seeking information on the anticipated timescales for expanding early learning and childcare provision to one and two-year-olds.

The committee has now received a response from the Scottish Government, which highlights the publication of "Best Start: Strategic early learning and school age childcare plan 2022 to 2026". The plan sets out the Government's priorities over the current session of Parliament and indicates that phase 1 of its commitment to develop a new offer of early learning and childcare for one and two-year-olds is under way, and that the findings from the first phase of the programme can be expected from 2023-24 onwards.

In light of the Scottish Government setting out that timetable, which appears to respond to the arguments in the petition, David Torrance has a comment.

David Torrance: Considering the response from the Government, I would like to close the petition under rule 15.7 of the standing orders, on the basis that the Scottish Government has committed to expand early learning and childcare to one and two-year-olds. The plan states that, from 2023-24 onwards, the Scottish Government will

"start to develop, trial and evaluate models of provision."

11:00

The Convener: Are colleagues on the committee content with the suggestion from Mr Torrance?

Members indicated agreement.

The Convener: We thank the petitioner very much for their petition and we hope that the action of the Scottish Government now progresses. Of course, as we have said in the past, in the event that the petitioner feels that there has been a shortcoming in the commitment that has been given, they can come back to us with a fresh petition in due course.

Diabetes (Care for Women) (PE1920)

The Convener: That brings us to PE1920, which was lodged by Laura Hastings. The petition calls on the Scottish Parliament to urge the Scottish Government to provide more thorough follow-up care for women with diabetes.

We previously considered the petition at our meeting on 23 February 2022—it is quite fresh in my mind, so I am surprised that that was so long ago. We put on record our apologies to the

petitioner for not returning to the petition before now. At that meeting, the committee agreed to write to the Scottish diabetes group and relevant stakeholders to ask whether they are satisfied with the measures that the Scottish Government has taken in women's health and diabetic health.

The committee has now received a response from the chair of the Scottish diabetes group. The response highlights the national diabetes dataset, known as Scottish Care Information-Diabetes, or SCI-Diabetes, which has been used to inform the work of the NHS Research Scotland diabetes epidemiology group on the impact of inequalities in diabetes care.

The response recognises the significant impact that menstruation and menopause can have on diabetes control, as well as the increased risk of cardiovascular disease for women with diabetes. The chair of the Scottish diabetes group also indicates that the women's health plan will be discussed at Scottish diabetes group and national diabetes managed clinical network meetings to ensure widespread awareness of the policy.

The committee also wrote to Diabetes Scotland to seek its view on the issues raised in the petition. Unfortunately, despite our best efforts, a response has not been forthcoming.

In view of the responses that we have received from the Scottish diabetes group and the Scottish Government, are there any suggestions that colleagues would like to make?

David Torrance: Considering the information we have received back, I think that the petition has achieved what it was meant to achieve. I would like to close the petition under rule 15.7 of the standing orders, on the basis that the Scottish diabetes group is continuing to develop the national diabetes dataset, SCI-Diabetes using data to inform on-going commitments related to the "Diabetes Improvement Plan: Diabetes Care in Scotland—Commitments for 2021-2026", and has discussed the women's health plan at Scottish diabetes group and national diabetes MCN meetings to ensure widespread awareness of the policy and its impact on the diabetes improvement plan.

The Convener: Thank you. If colleagues have no comments, are they content to proceed?

Members *indicated agreement.*

The Convener: We thank the petitioner for the petition and again say that, in the event that they feel that the actions that have now been promised do not materialise, they can return at a later date. That was the last of our continuing petitions.

New Petitions

Domestic Abuse Perpetrators (Family Court Proceedings) (PE1968)

11:03

The Convener: We now move to new petitions. As I normally caveat when we discuss new petitions, before the committee considers a new petition, we send the petition to the Scottish Government and request an initial view in relation to the objectives of the petition, simply so that we do not spend the first meeting agreeing to do that, which would only delay our progress and consideration.

The first new petition that we will consider is PE1968, which was lodged by Angela Evans and is on restricting the ability of perpetrators of domestic abuse to use family court proceedings to continue tormenting their victims. The petition calls on the Scottish Parliament to urge the Scottish Government to review existing legislation on family law and seek to stop perpetrators of domestic abuse causing further abuse and distress to partners and children by removing their ability to apply for contact orders under section 11 of the Children (Scotland) Act 2020.

Angela tells us that mothers and their children are being let down by the family court system, which has granted contact orders to perpetrators of domestic abuse. In her view, that forces victims of abuse, who can include the child or children, to spend time with someone who has abused them, potentially putting them at further risk.

As I said a moment ago, and as we do with all new petitions, the committee has sought an initial response from the Scottish Government. The Government states that there is no place for domestic abuse in Scotland but suggests that removing the ability of perpetrators of domestic abuse to apply for contact orders might raise questions about access to justice.

I should note that the Scottish Government response and the briefing that we have received from the Scottish Parliament information centre both highlight that applications to the court for contact orders are made under section 11 of the Children (Scotland) Act 1995, rather than the 2020 act that is referred to in the petition.

The Scottish Government's response also notes that changes to section 11 of the 1995 act have recognised the impact of domestic abuse. There are also provisions contained in the Children (Scotland) Act 2020 that have yet to be implemented and which relate to matters such as the appointment of a child welfare reporter to gather the views of the child and report on the

child's best interests, and the use of special measures to help protect vulnerable witnesses and parties when family cases are considered. Information in the SPICe briefing suggests that it may be 2024 before those provisions are implemented, or the new systems of regulation become operational, which hardly seems ideal.

Do members have any comments or suggestions for action?

Alexander Stewart: I am perplexed by this in some ways. I appreciate what the Scottish Government is saying about what it is attempting to do, but, in my view, there are still areas of responsibility that may require some clarity. I think that the time lapse on this is also stressful. I note what the petitioner says about being let down and the complexities of such issues. There is no doubt that there is exposure of individuals to potential abusers in the process.

I would seek some clarity. I would like to see more information from organisations that may be able to give us a little bit more advice and support. I suggest that we write to the Law Society of Scotland. I think that Scottish Women's Aid, Shared Parenting Scotland and the Children and Young People's Commissioner Scotland have a role, too.

I acknowledge what the Government is saying. In due course, things may improve, but at the present time I do not see that being the reality.

The Convener: Thank you. I have to say that it was judged necessary for the protection of families in situations of domestic abuse to introduce regulations as a consequence of the 2020 act, but those are not going to be implemented until 2024. Let me anticipate that we will be told that the pandemic means that work on various things was delayed. However, to be told that it is expected that that might not happen until 2024 all sounds a bit vague and woolly to me.

In addition to Alexander Stewart's recommendations, I propose that we go back to the Scottish Government to ask why on earth this delay involving an issue of protection—a protection that the Parliament regarded as being so necessary that we embodied it in legislation—is going to take until an unspecified date in 2024 to resolve. There seems to me to be a lack of urgency. The pandemic is now behind us, in the sense that I do not think that it is imposing a burden on the Government such that it cannot pursue the implementation of provisions in its own legislation. I think that the distress that the delay will be causing really ought to be given greater urgency than the response suggests that it has been. Are colleagues content that we proceed on that basis? Does anybody else want to comment?

Carol Mochan: I am very supportive of the comments that have been made. I would particularly support getting some feedback from organisations such as Scottish Women's Aid, because that might give some weight to the fact that, as you say, convener, it does not seem sensible to wait for four years to implement such urgent legislation.

The Convener: It is not even that we do not have the legislation. The issue is with implementing it—that is the extraordinary thing. Are we agreed that we will proceed on that basis?

Members indicated agreement.

Child Protection (Public Bodies) (PE1979)

The Convener: Our next new petition is PE1979, regarding the establishment of an independent inquiry and an independent national whistleblowing officer to investigate concerns about the alleged mishandling of child safeguarding enquiries by public bodies. The petition has been lodged by Neil McLennan, Christine Scott, Alison Dickie and Bill Cook. I see that some of the petitioners have joined us in the public gallery to observe our consideration of the petition today and, as far as they are all here, we welcome them to our proceedings.

The petition calls on the Scottish Parliament to urge the Scottish Government to launch an independent inquiry to examine concerns that allegations about child protection, child abuse, safeguarding and children's rights have been mishandled by public bodies, including local authorities and the General Teaching Council Scotland, and concerns that there are gaps in the Scottish child abuse inquiry; and to establish an independent national whistleblowing office for education and children's services in Scotland to handle those enquiries in the future.

The petitioners tell us that they have supported whistleblowers in raising historical and current allegations about child protection, child abuse, safeguarding and children's rights and, while acknowledging the work of the Scottish child abuse inquiry, the petitioners believe that a separate and wider inquiry into safeguarding is required.

In responding to the requests of the petition, the Minister for Children and Young People states that learning from the Scottish child abuse inquiry, the independent inquiry into child sexual abuse in England and actions such as implementation of the revised national child protection guidance, mean that the Scottish Government does not consider that there is a need to extend the scope of the SCAI or to establish a separate inquiry to explore concerns that allegations about safeguarding have been mishandled by public bodies.

Although the petitioners have welcomed comments about improving systems as a result of the inquiries into cases of non-recent child abuse, they have restated the call for a distinct inquiry into wider allegations and whistleblower concerns about unresolved child protection issues that relate to organised criminal child exploitation and trafficking. The petitioners also highlight in their response that national child protection guidance is non-statutory, and they consider the guidance to be confusing, complex and somewhat contradictory.

The committee has also received a number of written submissions in support of the petition. Colleagues will recall our consideration of the eligibility criteria around some of the submissions that we have received and previously considered, many of which share details of families' experiences in pursuing child protection and safeguarding concerns, and the difficulties that they encountered in trying to resolve concerns with a variety of public bodies.

Do members have any comments or suggestions for action? I am certainly not inclined to follow the Scottish Government's initial response that it does not see any further merit in this.

David Torrance: Like, I assume, most of the committee, I would like to keep the petition open and gather more evidence on what the petition asks for. I would like to write to several stakeholders, including the Children and Young People's Commissioner Scotland, the Convention of Scottish Local Authorities, the Educational Institute of Scotland, Unison, the General Teaching Council for Scotland and the Scottish Social Services Council.

Alexander Stewart: I agree with that. I think that the petitioners have found that there is a gap, and there is no doubt that the process is confusing and complex. A whistleblower might well be what is required. By getting information from those organisations, we will get a better flavour of how the process is working. There is guidance in place but, as I said, I think that there is a gap in the process, which that action might help us to understand. Also, we should ask the Government how it plans to progress the issue, if the gap is perceived to be real, and we should ask to what extent it is focused on addressing it.

Fergus Ewing: I agree with all the comments thus far. I do not think that the Scottish Government's reply is adequate or sufficient by any means. I note that several MSPs from all parties have raised individual cases, which I think is an indication that the matter is not being sufficiently well dealt with at the moment.

I make a plea to the petitioners who are present here today and who have an interest. Without

further evidence from petitioners or others who have specific concerns, it is a little difficult for us to move forward and identify solutions, although suggestions have been made that are worthy of serious consideration. So, I make a plea that further information be provided. Of course, it would be required that information about particular cases be kept confidential.

11:15

The last point that I will make is that people in such circumstances probably feel that they are in a kind of David and Goliath situation—where they are David and the public authorities are Goliath—and feel very lonely, isolated, disempowered, hopeless and powerless to act, and often believe that the public authorities are not really listening. That is what I gather from experience over many years as an MSP. We need to give David the sling in order to be able to take on Goliath.

The Convener: We could also draw Mr Ewing's comments to the attention of colleagues in the Scottish Parliament who have raised the issues, to see whether there is anything more that they might be able to offer the committee by way of a testimony or consideration. That would be helpful.

I think that we are all agreed that we will keep the petition open and that there are serious issues underpinning it that need to be properly examined and pursued. We have outlined a number of open workstreams that we will pursue ahead of our next consideration of the petition. Are colleagues content with that?

Members indicated agreement.

The Convener: Thank you. That might not have felt like a long period of consideration, but I hope that the petitioners see that we are taking practical steps forward.

Domestic Abuse Perpetrators (Sale of Matrimonial Home) (PE1981)

The Convener: We move to petition PE1981, which is on ensuring that perpetrators of domestic abuse who have been excluded from the matrimonial home cannot force sale of the property. The petition has been lodged by Caroline Gourlay, and calls on the Scottish Parliament to urge the Scottish Government to strengthen legislation to stop perpetrators of domestic abuse, who have been excluded from the matrimonial home by a court order, being able to cause further trauma and distress to their victims by trying to force the sale of the property.

Caroline Gourlay highlights a potential loophole in existing legislation that enables perpetrators of domestic abuse to contact their victims through a third party to force the sale of a property. In responding to the petition, the Scottish

Government notes that section 4 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 provides protection to a spouse or children who are at risk of physical or mental injury because of the other spouse's conduct. That is achieved by applying to the court for an exclusion order. The Scottish Government also notes that, where a court action has been raised in relation to the division and sale of the matrimonial home, the 1981 act also includes provisions for the court to refuse to grant the decree or to postpone its being done for a period that it considers to be reasonable. The court may also grant a decree subject to conditions.

Although the Scottish Government has indicated that it has, at present, no plans to reform the 1981 act or equivalent provisions for civil partners, it is expected that phase 2 of the Scottish Law Commission's review of aspects of family law will focus on civil remedies for domestic abuse. Following the Scottish Government's response, we have also received a submission from the petitioner, which highlights that being contacted by a third party, such as a solicitor, can be a distressing and traumatic experience for victims, even where exclusion orders and interdicts are in place.

It is for that reason that Caroline Gourlay believes that individuals who are subject to interdict and exclusion orders should not be permitted to contact their victim directly or indirectly while the court order remains in place. It is a technical legal thing. Are there any suggestions?

David Torrance: Could the committee write first to the Scottish Law Commission to ask whether the issues that are raised in the petition will be looked at in phase 2 of its review of aspects of family law?

The Convener: Are there any other suggestions, colleagues?

Alexander Stewart: It would be also useful to gather more information from organisations that you have talked about in the past. The Law Society of Scotland has a role, as do the Family Law Association and Shared Parenting Scotland. Their views and opinions would be useful, in addition to what David Torrance said we should ask the Scottish Law Commission.

The Convener: I note that the Scottish Government says in its response that if a couple who are married or cohabiting own a home together both must agree to its sale, otherwise the party who wants to sell the property will need to raise a court action seeking an order for division and sale. Under section 19 of the 1981 act, where a spouse has raised an action of division and sale involving the matrimonial home, the court may refuse to grant the decree or postpone doing so

for a period that it considers to be reasonable, or it may grant the decree subject to conditions. You are a lawyer, Mr Ewing. Are you able to add any nuance to all this?

Fergus Ewing: I hesitate to opine because I have not really given the matter sufficient consideration, but I will just make a couple of remarks. In not every case is title held in joint names. In many cases title is solely in the name of the excluded person, who is usually—almost always—the husband or partner.

Where title is solely in the name of the person who has been excluded, the argument that has rightly been put forward by the Scottish Government—that an action for division and sale would be required—will not apply because such action applies only where there is joint title. That would normally be the case, but title is not infrequently solely in the name of the husband. It could be that the property was acquired by him before the marriage or it could be that it was taken only in his name, perhaps because he was the wage earner and so on.

There is a loophole. If it is right to exclude a male for violent behaviour towards his wife—an exclusion order will not readily be granted unless there is real substance and evidence—I do not see how it can be right and permissible for that person to be allowed to sell the property from underneath the wife's feet. That seems to be plainly wrong. Therefore, in the interests of female rights and justice, the loophole should be closed. That is just an off-the-cuff personal view, but I hope that it helps.

The Convener: That does help. I think that we agree to write to various organisations, in the first instance. That wee synopsis is good context for us when we consider the issue as we proceed. Are members content to proceed on that basis?

Members indicated agreement.

Royal Conservatoire of Scotland (Funded Places for Scottish Ballet Dancers) (PE1982)

The Convener: That brings us to PE1982, which has been lodged by Gary McKay. The petition calls on the Scottish Parliament to urge the Scottish Government to review the funding that is provided to the Royal Conservatoire of Scotland to enable more places to be made available to Scottish students pursuing ballet at that level.

The Scottish Parliament information centre briefing states that higher education institutions are autonomous bodies, although they receive significant funding from the Scottish Government. It notes that the Scottish Government does not direct how many funded places individual universities make available, and that it is unable to intervene in internal institutional matters. In 2021,

funding was provided to the Royal Conservatoire of Scotland that provided 30 places for Scotland-domiciled students studying dance. The response from the Scottish Government reiterates the technical points and notes that universities are able to offer as many places to international students as they wish.

We have received a submission from the petitioner that highlights the issue of opportunity for Scottish dancers to continue in further ballet education. He shares his view that the current set-up provides a means for increased business turnover and focus on financial interests. The petitioner raises concerns about the financial burden that is faced by students who might have no choice but to study outside Scotland as a result of limited places at the Royal Conservatoire.

Do members have any comments? I appreciate the general point that the petitioner is making about international students absorbing many available places.

Fergus Ewing: I have had a case from a constituent regarding their daughter, who was an accomplished dancer who had sought to obtain a place at the Royal Conservatoire. Their experience was very much in line with what is described by the petitioner; namely, that although she appeared to have the credentials and skill to earn a place, the places were being given mostly to candidates from elsewhere in the UK. There appeared to be, I think—it was a few years back—evidence that the Royal Conservatoire is very closely linked with one particular establishment in England, many candidates from which gain places at the Royal Conservatoire.

I am not in a position to make a judgment, other than to say that it seemed to me, from correspondence that I had with the Royal Conservatoire at the time, that there is a serious problem and that Scottish candidates are not getting into the Royal Conservatoire. I got a reply from the management of the Royal Conservatoire. I have to say that, in my recollection, it was quite dismissive of the concerns, which disappointed me.

At the end of the day, I am not sure that we have a locus to act, or how we could act. However, surely the situation is wrong in principle. Qualified young people in Scotland, who wish to pursue a career in the specialist area of ballet, and who in every case have devoted their childhood and adolescence to spending hundreds—if not thousands—of hours trying to get into a very limited pool of places, should at least have the chance to get into the ballet school in their own country.

Because of my experience, which I admit is anecdotal, I think that we should pursue the matter with the Royal Conservatoire of Scotland's ballet

department and ask it to provide evidence about the number of applicants from Scotland and the number who have been accepted over, say, the past 10 years, and evidence about other candidates who have been accepted and from whence they have come. There are, perhaps, a limited number of cases with only a few people involved, but I am aware that the issue caused one particular family real heartache and disappointment with the system as it operates in Scotland.

The Convener: Yes. I suspect that in some ways this is the tip of the iceberg, because the current funding model, particularly for specialised disciplines, is leading to this situation. I would be quite interested to open, in as constructive a way as possible, a discussion with the Royal Conservatoire about the challenges that it thinks it faces and what its application and award of places model is. I would like to find out the extent to which it wants to be candid about allocation of places, based on the fact that some allocation creates an additional financial revenue stream, and the extent to which it accepts or acknowledges the difficulties that that might be placing on the ability of Scotland-domiciled residents to access courses at the Royal Conservatoire.

Ultimately, there is a reputational issue for the Royal Conservatoire. It enjoys a tremendous amount of public goodwill; I know that to be so. That is the case very much because it is the Royal Conservatoire of Scotland and people will imagine that talented people here in Scotland have a fair and equal opportunity to access courses in the disciplines in which it specialises.

Although I accept that that argument could be made in relation to access to other further education institutions, we are considering a petition in relation to a particular matter, so it would be reasonable for us—using the official hat of the Scottish Parliament—to seek slightly more information from the conservatoire, at least.

David Torrance: Can we ask, when we contact the Royal Conservatoire—I believe from the evidence that you mentioned that there are 30 funded places—whether it is filling all 30 places for Scottish students?

The Convener: Yes—it would be interesting to have that information.

That brings us to the end of the public part of our proceedings. We will meet next on 22 February.

11:28

Meeting continued in private until 11:33.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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