



OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 19 April 2023

Session 6



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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE

6th 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:

Megan Farr (Children and Young People's Commissioner Scotland)

Fiona McFarlane (The Promise Scotland)

Joanne McMeeking (CELCIS)

Laura Pasternak (Who Cares? Scotland)

Jasmin-Kasaya Pilling (Who Cares? Scotland)

CLERK TO THE COMMITTEE

Andrew Mylne

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 19 April 2023

[The Convener opened the meeting at 09:31]

Continued Petitions

Looked-after Young People (Aftercare) (PE1958)

The Convener (Jackson Carlaw): Good morning, and welcome to the sixth meeting of the Citizen Participation and Public Petitions Committee of 2023. I begin by offering an apology on behalf of the deputy convener, David Torrance, who is not able to be with us this morning, sadly. That is a shame, because he was with our petitioners last night.

We come to that petition now under agenda item 1, which is consideration of continuing petitions. The first of them is PE1958, on extending aftercare for previously looked-after young people and removing the continuing care age cap. The petition was lodged by Jasmin-Kasaya Pilling on behalf of Who Cares? Scotland, and it calls on the Scottish Parliament to urge the Scottish Government to extend aftercare provision in Scotland to previously looked-after young people who left care before their 16th birthday on the basis of their individual need, to extend continuing care throughout care-experienced people's lives on the basis of individual need and to ensure that care-experienced people are able to enjoy lifelong rights and achieve equality with non-care-experienced people. That includes ensuring that the United Nations Convention on the Rights of the Child and the findings of the Promise are fully implemented in Scotland.

I am delighted that we are joined this morning by the petitioner, Jasmin-Kasaya Pilling, and by Laura Pasternak, also from Who Cares? Scotland. Thank you both very much for coming to join us this morning to give evidence.

Before we get started, and for the benefit of anyone following today's proceedings, I should note that members of the committee—Alexander Stewart and David Torrance, who were in the Parliament yesterday—had an informal discussion with individuals with lived experience of the issues raised by the petition. I understand that that was a forthright and interesting conversation. The discussion was supported by Who Cares? Scotland, the Aberlour Child Care Trust and the

Scottish Refugee Council. A note of the discussion will be published on the petition web page in due course.

Getting under way with our evidence session this morning, I understand, Jasmin, that you would like to make a statement to the committee—which the wider world will of course also see and hear—and we will then move to questions.

Jasmin-Kasaya Pilling (Who Cares? Scotland): Thank you for having me. First, I will introduce myself. My name is Jasmin-Kasaya Pilling. I am a mum of two and a member of Who Cares? Scotland. I lodged the petition because some care-experienced people in Scotland today are finding services to be inaccessible, due to arbitrary criteria relating to their age and to when they left care. They are often left to navigate difficult issues without the support to which many of their care-experienced peers are entitled.

I look forward to discussing solutions with the committee and to reflecting on the powerful lived experiences that we heard about online during our session yesterday.

The Promise says that

“present definitions that operate do not ensure that those who leave care prior to their sixteenth birthday are able to access legal entitlements”

and that

“Older care-experienced people must have the right to access supportive, caring services for as long as they require them.”

Who Cares? Scotland's advocacy highlights examples of care-experienced people not being able to access certain support because they are not formally looked after beyond the age of 16 or have had to push to be kept on compulsory supervision orders when local authorities tried to remove them against their wishes before their 16th birthdays. Those include several examples of orders ceasing when someone was aged 15, including 15 years and 11 months.

I was fortunate enough to have access to services because I was looked after past my 16th birthday. However, many of my friends have left care and experienced homelessness, poverty and poor mental health with a lack of advocacy to access services. Ultimately, that cost six of them their lives before they reached the age that I am today. Sometimes, I feel guilty that such a small detail offered me the opportunities and support, the lack of which had such a detrimental impact on them.

However, more than guilt, I feel anger. That is partly because, since 2018, I have reached out to my local councillor, MP, MSP, the First Minister and the then children's minister but I felt that I was

not getting anywhere, which is why I lodged the petition with Who Cares? Scotland's support.

I know that over-16s can have trouble accessing services due to a lack of knowledge of their rights and arbitrary age criteria. Who Cares? Scotland's advocacy evidence tells us that it has had around 3,000 calls since it started its helpline, which provides lifelong advocacy support for care-experienced people in recognition of the fact that the need for advocacy does not stop at the age of 26. Some of the common issues that the helpline encounters are: homelessness, people not being eligible for financial support, barriers to setting up bank accounts and applying for a care-experienced bursary, and not being entitled to council tax exemption.

As we know, many young people want to come off their supervision orders. We are concerned that some young people are not aware of the consequences of coming off their CSO and losing their rights to support.

Last night, alongside MSPs, Laura Pasternak and I heard directly from people with lived experience. I will describe some of the main points that were highlighted.

There was overwhelming agreement about a call for lifelong support for care-experienced people, particularly to prioritise mental health and housing support. There was also overwhelming agreement that the age cut-off should be removed. Support should be based on needs, not an age limit.

Many people have not known that they were care experienced, which led to them not being eligible for support and to them missing out. Some people could not get support as they were moved from different local authorities and wanted local authorities to collaborate on more of those issues so that they could get adequate support.

People felt dehumanised when trying to fit into bureaucratic processes rather than systems being designed for them. It is important that we are able to navigate the processes where there is support for young people. Furthermore, for asylum-seeking and refugee care-experienced young people, there were additional barriers, such as delays in getting protected status, which affects their eligibility for support and their rights to study in, work in and integrate into the society in which they have grown up.

I ask the committee to help us to come to a conclusion that ensures that everyone in our community has access to the support that they need when they need it. When we do that, everyone benefits.

The petition pushes for a fairer Scotland for all care-experienced people. A date should not

determine the opportunities and chances that care-experienced people have in Scotland. Every care-experienced person should have the right to thrive. To keep and uphold the Promise and the rights of care-experienced people, if we are called care-experienced people, all our care experiences should count.

I look forward to working with you on the next stages and finally bringing about change.

The Convener: Thank you. That was very comprehensive.

I go back to the first few words that you spoke. You talked about the fact that you had access to services that, you realise, other people did not have. How close was the support that you received to being a model of what should be available, and to what extent could your experience have been different or have contributed further to the support that you were looking for?

Jasmin-Kasaya Pilling: Honestly, the support that I experienced was phenomenal. I had support from my local authority and aftercare from a charitable organisation.

I also had my friend's mother, who was a youth development officer. She attended my panels with me and she supported my being kept on a supervision order. Originally, I was removed when I was 15 years and two months. Unfortunately, I fell into homelessness and was put back on a CSO because I had no parental support—I had no family around me and was, essentially, homeless. She was my first point of contact, and she put me in contact with social work. If it was not for having that kind of advocacy and support network, I would probably not have thrived.

Even afterwards, when I moved from that local authority to a new local authority, I kept in contact with my aftercare support workers. However, she was the link, and I was able to access college. I became a parent during that time, so I was also able to access support in relation to navigating that route.

Essentially, I had a village around me, which benefited me. However, if I had been taken off my CSO and did not have that person, I would not have been entitled to housing support; I would not have been able to benefit financially from the care-experienced students bursary; and I would not have been able to have support to move into accommodation with my child. I would have been destitute, essentially, in a new city, with people that I did not know.

CSO is an absolute lifeline. It is vital, because people are left to navigate stormy waters and have not got a parent to turn back to, to reflect with and ask those questions, so they are dependent on

services from what we call a corporate parent—that is our version of a parent.

The Convener: Essentially, you are saying that you had a robust experience; that it was made so not so much by design but by accident and chance, through the advocacy that was extended to you because of connections through family and friends at that time; and that, for many other people, that is just not their experience.

Jasmin-Kasaya Pilling: Absolutely. For many people, that might not be the experience, because they do not know their rights.

I used to attend children's panels, and I remember seeing a poster that said, "A child is entitled to—". I sat and memorised that poster, so I knew my rights, but some people do not know their rights. Removing people early from a CSO—which some people want to happen, because there is stigma attached to being care experienced, so they want to come off it so that they will not have any involvement with certain agencies—can be detrimental to their future outcomes. That is not explained to them, because a lot of young people do not know their rights.

The Convener: Laura Pasternak from Who Cares? Scotland, would you like to contribute anything at this opening point?

Laura Pasternak (Who Cares? Scotland): Although Jasmin's experience of care was robust and phenomenal, we know from research that CELCIS did last year—which you will probably hear about from Joanne McMeeking later—that there are variations in the provision of continuing care, and implementation gaps. Although being on a CSO is a massive opportunity with regard to eligibility for support, that support is not necessarily guaranteed and is patchy from local authority to local authority. In addition, last night we heard that local authorities can pass the buck over who is to support a young person who has moved local authority area. Their original local authority may be presumed to be required to provide support but, for example, when housing points are involved, a young person can feel stranded and not able to access the support that they require. They just need any local authority to provide that support and for those not to be seen as separate corporate parents but, as Jasmin said, a village of corporate parents who work together to support them.

09:45

The Convener: Thank you. I am sorry that David Torrance is not with us this morning because, when we first considered the petition, he very much thought that we would value the opportunity to meet the petitioner. He has another engagement—a personal engagement—that

means that he cannot be here this morning. He took part in last night's discussion, along with Alexander Stewart, whom I invite to take forward the questioning.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning, Jasmin and Laura. It is good to see you again. Thank you for taking part in last night's discussion. As has been indicated, it was a very robust session, at which we got a strong flavour of the issues.

You have spoken about having to navigate barriers. It is clear from last night's discussion with people with lived experience that that was one of the big issues that they had. You have identified that there does not seem to be a joined-up approach across some of the agencies that are involved. What needs to change? If things are to improve, change is needed. Last night, we got a flavour of how people had found it difficult to navigate the system. Jasmin has identified that some people found that so stressful and so problematic that they ended up going down a different route. For some people, that was a final route. We do not want anyone to experience that. It would be useful to hear what changes you think that we need to see in relation to navigating the barriers.

Jasmin-Kasaya Pilling: One change would be to include previously looked-after young people in the current legislation. Another one would be for the committee to write to the Scottish Government to ask it to work more closely with local authorities to end the practice of forcing people to come off their supervision orders early, because there is an element of people not knowing their rights. If that was written into policy and legislation, that would limit a lot of the things that we see happening.

Laura Pasternak: I would like to expand on that last point. There is a really good quote from Clan Childlaw. It states that continuing care is an area

"where we often see rights breaches",

and that the current approach

"focuses decision-making on resources and capacity, and away from the individual needs of the young person."

I think that that message needs to be communicated in line with the promise about people being part of the decision around whether they will stay on their supervision order and understanding the implications of staying on their order or not, rather than feeling as though the process is being done to them.

That applies to navigating complex systems as well. That should be done through advocacy. We heard that a lot last night—support should be provided in such a way that the process of accessing support does not further traumatise already traumatised individuals.

The point about legislation is really important, but if we look at what the Promise says, we also need to take a longer-term view. We must think about how we can see care experience in terms of identity rather than eligibility, because that is the main issue and that is where the system needs to be transformed. If the initial tweak could be that we include previously looked-after people to be eligible for continuing care, that would make a massive difference. However, in the longer term, we need to think about the upcoming Promise bill and the upcoming human rights bill, and how we ensure that care-experienced individuals—who experience greater barriers in realising their rights not just when they are in care but throughout their lifetimes—receive lifelong support on the basis of their identity as care-experienced individuals.

Alexander Stewart: I found it very interesting to have it explained last night that some individuals were unaware that they were in a care situation. We might assume that someone going through a process was being supported but, for many people, that was obviously not the case. You have identified that advocacy works extremely well, and the support continues when individuals grow, progress and do other things. If they relocate or if they have to change things, however, the whole system does not seem to add up. There needs to be much more partnership working or co-operative working. Do you think that we need to consider that, too, if we are to progress?

Jasmin-Kasaya Pilling: Yes, I absolutely think that that is something that we need to consider. As corporate parents, we are all responsible for supporting care-experienced people, but advocacy is vital for people who are older and who are experiencing barriers through poverty and housing. It is essential to have joint working to create a system with a safety net, as opposed to people struggling without anyone to support them.

Many of the care-experienced people who were taking part in the discussion yesterday were receiving advocacy support from Who Cares? Scotland, the Refugee Council and Aberlour, which are all national charities. That is where things become easier: they can be someone's voice when they feel voiceless.

Alexander Stewart: However, we should not be relying on the third sector to fulfil those needs. That is where the gap that you have identified exists..

Jasmin-Kasaya Pilling: Yes.

Alexander Stewart: I think, Laura, that is what you have already said and are trying to say again here today.

Laura Pasternak: Yes: that is not sustainable, and there needs to be a recognition that there is an unmet need for advocacy for care-experienced

people under the age of 26, but also beyond that. We need to think about what we can put in place to ensure that care-experienced people are aware of their rights and are supported to realise them. If we continue like we are doing, we will just perpetuate the inequity.

At last night's discussion, many of the young people who did not realise that they were care experienced were in informal kinship care—looked after by their granny or their auntie, for instance. They did not realise that they were eligible for any support, and some of them were moved back to their parents without having been part of the decision and without realising that they had a say. They had very little support thereafter. There is a distinction between the support that people get in formal kinship care versus informal kinship care. For a refugee or an asylum seeker, the question of having protected status or not presents a real problem when it comes to accessing housing, financial support, the care-experienced students bursary and education.

We know from our advocacy that a lot of requests come through where our advocates have to highlight for corporate parents parts of the Promise showing that there is a broad definition of care experience, and they then use a bit of discretion to ensure that the correct support is there for the individual on a needs basis. It is possible to have that discretion and to apply that flexibility, but only for the select few who are able to access advocacy.

The Convener: I see that there are 13,255 children and young people who are looked after by local authorities. In 2020-21, 534 young people were recorded as entering continuing care, with 7,323 young people being eligible for aftercare. I want to be clear about this. In Jasmin's experience, where advocacy was available and in place, she regarded the support package that she received as being superb.

There is obviously an appreciation of what the support should be. In Jasmin's case, that happened. Is it that the resource is not there for everyone to experience the outcome that Jasmin did, or is it that there is, as you have both identified, a lack of understanding and availability of advocacy and a pathway to access the service? If that is the case, I would distil my question down to this: who needs to do what?

Jasmin-Kasaya Pilling: We need to work better as corporate parents, and to work collaboratively, as local authorities do. There is also the issue around definitions, because definitions determine the outcome and we need to make sure that we are not missing people because of a term. It should be a needs-based approach.

The Convener: So who needs to do what? To whom would you like to say, “You need to change this, so that this happens.”?

Jasmin-Kasaya Pilling: We need to work on the legislation and to ask the Scottish Government to amend the legislation that is currently in place. We also need to highlight the issue of young people being removed from CSOs. Funding will need to be provided for the process. In line with the Promise, we know that the workforce will be working towards the massive area of scaffolding, which I think is vital.

The Convener: Jasmin, in your opening remarks, you movingly referred to the fact that some young people who were not able to navigate the right pathway ended up losing their lives as a consequence. What circumstances do you think prevailed on them that led to that being the case? Was it frustration, bewilderment, a loss or what?

Jasmin-Kasaya Pilling: It is a range of different things. I would say that someone having to prove that they are care experienced is probably one of them. When someone leaves care, I guess that they put it in a box and put it aside, but when it comes to things such as accessing priority for housing points, accessing financial support when they go to college or accessing a council tax exemption, they have to prove that they are care experienced. Essentially, people have to start gathering data on themselves to prove that they are care experienced. If that is correct and the person is care experienced, that is great, but they still have to find the proof, and it is very time-consuming. If someone is working full time and they have to ask a social worker or the department that knows that they were looked after six or seven years ago, it can take a lot of time.

If a person’s care experience was longer ago than that, they will have to make a freedom of information request to access their care records, and they do not come back very quickly. I requested to access my care records in January and I am still waiting. It can take up to six to eight months or even longer. During that time, that person will still be facing homelessness and poverty and waiting for someone to pass on the information so that they can prove that they are entitled to support. It can become dehumanising and mentally draining because they are revisiting a trauma. We understand that childhood trauma is real; it does not go away because the person has grown out of the care system.

If a person does not have friends in the right place or people who can offer a helping hand, they might fall through the cracks and their mental ill health will persist and grow. We also know that it can take a long time for someone to access support for their mental ill health when they are

trying to stay level. There are long waits during which the person is left without support.

The Convener: It is an overwhelming experience for someone who is vulnerable in the first place, and for some, it becomes too overwhelming.

Jasmin-Kasaya Pilling: It becomes too overwhelming. It becomes too much and you are, essentially, broken.

Carol Mochan (South Scotland) (Lab): Thank you for all the information. I am interested in what you said in your opening remarks about how you had already done some work on the issue before you approached the committee. Is there anything in that that we can follow up on? What commitments did you get that might not have been fulfilled yet? Tell us about the work that you did beforehand in case we can build on anything that has already been put in place.

10:00

Jasmin-Kasaya Pilling: I contacted my local councillor, who was fabulous. He directed me to speak to my MSP and, because some of the areas that I was looking at involved people from refugee and asylum backgrounds, I was also directed to speak to my local MP. From there, I e-mailed the First Minister at the time, and the response that I got was that I should take part in the 1,000 voices project. Doing that was very important to me, and I did take part. My MSP and my MP then contacted the children’s minister, who suggested that I consider making an application to join the Promise, and that is where it ended.

Laura Pasternak: At the time, the avenue for Jasmin was to take part in the independent care review, which led to the Promise. The issue was highlighted in the Promise, but it is not being taken forward in “Plan 21-24”, so it is outstanding.

Who Cares? Scotland is also on the advisory board for the human rights bill, and we feel that the concept of lifelong support for care-experienced people as an equality group with an identity is an area that we can progress through the human rights bill. However, we need some support from the committee to shine a light on the issue for the Scottish Government, other organisations and local authorities.

There are quite a few things that could be changed. Legislative change could be a tweak, it could be transformational or it could be both in the longer term. There are also resource issues, and conversations need to be had about prioritising the issue.

We were really grateful for the training from the Scottish Parliament that encouraged Jasmin to submit the petition. She felt that she had tried all

relevant avenues, and being connected with the Promise, she felt that she wanted to try something to shine a light on the issue.

Jasmin-Kasaya Pilling: The situation is complex, as we highlighted at the meeting last night, so it needs detailed observation.

Carol Mochan: Okay. You said that there is work to be done on different levels. There might be layers of things that require to be done, but this committee can build on existing work. It is important that, although certain avenues have been explored, some pressure is applied to get the last part over the line.

Laura Pasternak: I want to take the opportunity to say that, when you speak to the next panel of witnesses, you will probably talk more about addressing the issues of implementation for continuing care with the current eligibility criteria. That is a major issue as well, but perhaps it requires a separate, connected petition, because those issues need to be addressed before the ones that we have raised can be addressed; both sets of issues need to be addressed. We do not want the outcome of Jasmin's petition to be that issues of implementation with current eligibility will be addressed, because the point of the petition is that a lot of people are falling through the cracks with current eligibility.

The Convener: Fergus Ewing, it was at your instigation that we spoke with the two panels of people with experience of all of this last night.

Fergus Ewing (Inverness and Nairn) (SNP): I must apologise for being unable to come last night, but I am so pleased that my colleagues were able to be there.

I want to pursue some points that Laura Pasternak made in response to earlier questions about what she would like to see the committee do or recommend being done.

Laura, you said that legislation may require to be changed and you referred to supervision orders. Will you expand on that? Obviously, we want to try to help to identify precisely what needs to be done in terms of changes to both the law and practice. I appreciate that care is, by its nature, a general, nebulous concept that can involve all sorts of things. We have heard that it can involve access to finance, housing, arranging things, physical care and mental health provision. It covers a wide spectrum, which makes it quite difficult to have clarity, but we need clarity in order to be of whatever help we can be in recommending that necessary changes are made.

I suppose I have two questions. First, will you expand on the legislative change that you believe is required? Is it a matter of definitions? I think that, to some extent, what is set out in the Promise

aims to avoid cliff edges and to remove anomalies resulting from certain care ending abruptly at the age of 21 or 26. Is that the definition that you want changed? Secondly, will you expand on what you believe should be done in relation to supervision orders?

I am sorry to be long winded. I used to be a lawyer, and in that work you get paid by the word. *[Laughter.]* It is hard to kick the habit. However, we are here to help and we want to get as much clarity as we can.

Laura Pasternak: As I mentioned, there is an initial bit of legislation to consider, and then there is future legislation to consider. Section 66 of the Children and Young People Scotland Act 2014, which amended the 1995 act, provides that, from April 2015, any young person who ceases to be looked after on or after their 16th birthday—by “looked after”, we mean that they are on a CSO—and is under 26 years of age is eligible, or potentially eligible, for aftercare. That is the section that we need to look at, because it contains an age cut-off. If a young person comes off their CSO before their 16th birthday, but also when they reach the age of 26—

Fergus Ewing: So there are two issues.

Laura Pasternak: Yes. Continuing care—

Fergus Ewing: There are those who are under 16 who are cut out of the system, and there are those who need care after they are 26, which is an arbitrary age.

Laura Pasternak: Exactly. Jasmin-Kasaya Pilling and I were talking about this on the train on our way here. There is a lot of jargon. We are used to using it, but it may be confusing. When we say that a person was “previously looked after”, we mean that they are no longer on a CSO. The issue arises if they came off the CSO before their 16th birthday. For example, they may have lived in a children's home until they were 15 and a half and then gone back to live with their parents, but that relationship may have broken down when they were 17, resulting in them becoming homeless. That is just one specific example. I cannot generalise, but all the case studies—

Fergus Ewing: That is really helpful. You have clarified that extremely well.

The other issue is supervision orders. Will you expand on that? You made only a short reference to that, so I am not sure how significant it is. I had a quick look at the definition of supervision orders, and they seem largely to be part of the criminal sentencing world rather than the social work and care world, if you see what I mean. I am not an expert in this area and I was a bit puzzled, because supervision orders seem to be issued by children's hearings. There is provision for

supervision orders to be made in respect of adults as well, but that is very much in the context of sentencing.

Laura Pasternak: That can be the case, but compulsory supervision orders are wider than that. There are lots of different types of CSOs. Some will involve the person being put in secure care or, until the provisions of the Children (Care and Justice) (Scotland) Bill come into force, a young offenders institution, but a young person can also be on a compulsory supervision order to be formally looked after by a family member, in kinship care, or by the local authority, maybe in a children's home.

We say that everyone knows what a CSO is, but there are many different types. It can be a formal order, with children described as being formally looked after by the state. However, they can also be informally looked after, as in the example that I gave earlier: where a child, for whatever reason, cannot be looked after by their parents, and their granny, auntie or grandpa takes on a kinship care role.

The local authority might be involved with the family through social work, but there might not be a formal order for the agreement, perhaps because everybody is in agreement. A child might not be eligible for continuing care because they are not "looked after" under the terms of the legislation. There is guidance—I cannot remember the exact title of it—on looked-after children on the Scottish Government's website that states what someone needs in order to be deemed "looked after" and therefore eligible for care.

I think that we need to look at that legislation initially, and at definitions. As you said, the Promise bill could be an opportunity to legislate for the definition in the Promise. We know that corporate parents, often with a bit of encouragement, are adopting that definition when they provide support to care-experienced people. It is a broad definition of care experience that takes into account many different types of care. I think that that will make a big difference.

It is for Parliament or Government to decide in which legislation it would be best to include that definition, but we would like to see the definition that is in the Promise set down in legislation—not in soft law, but in hard law—so that it is non-negotiable.

With regard to support beyond the age of 26 and all the different types of support that you mentioned, we feel that care-experienced people need to be prioritised, in particular for mental health support. We have a participation research report called "Tend our Light", from last year, which showed that children in care are not being proactively offered mental health support, and that

there is a real issue with care-experienced people not being able to access support later in life when they might be better placed to process that trauma. It might have been pushed down for a while, and they may need to seek counselling later on, in particular when accessing their care records.

There needs to be more support at that age—well, people need support at any age when they require it. We feel that if care-experienced people were mentioned in the human rights bill, we could take more of an equalities approach to enabling them to access support.

Obviously, the Scottish Parliament cannot amend the Equality Act 2010, but we would like to see what we could do in Scotland with our public sector equality duty and the upcoming human rights bill to improve equal opportunities for care-experienced people. That is within the Scottish Parliament's competence; we think that there is a real opportunity to do that here, and for Scotland to lead the way, not just in the UK but globally, in recognising care-experienced people as a group that needs extra support in legislation.

The Convener: We have extended the session quite a bit, such has been the interest in the issue at hand. Before we move to the round-table conversation, would you like to make any final comments about anything that we have not covered this morning?

Jasmin-Kasaya Pilling: First, I thank the committee for having us here today. I also thank the agencies that will be attending the round-table discussion with us.

The Convener: I thank you both—we very much appreciate your contribution to the discussion this morning. I suspend the meeting briefly in order that we can invite others to join us.

10:14

Meeting suspended.

10:15

On resuming—

The Convener: Those who are following our proceedings this morning will know that we just heard from the petitioner, Jasmin-Kasaya Pilling, and Laura Pasternak from Who Cares? Scotland. As trailed, we now move to a round-table discussion, and I am delighted to welcome Joanne McMeeking from CELCIS, which is the centre for excellence for children's care and protection; Megan Farr from the Children and Young People's Commissioner Scotland; and Fiona McFarlane from The Promise Scotland.

We continue our consideration of petition PE1958. We had hoped to be joined by representatives of the Scottish Throughcare and Aftercare Forum, but it is unable to meet us at this time.

We move straight to questions. You listened to the evidence that we heard from Laura Pasternak and Jasmin-Kasaya Pilling, and there were positives in all that as well as the issues that arise from the petition, which they identified as being the real problem. How are aftercare and continuing care currently working in Scotland, and to what extent did you recognise and empathise with the issues that were identified a few moments ago? Any one of you can volunteer to jump in.

Joanne McMeeking (CELCIS): I think that my colleague just nominated me.

The Convener: Perhaps that is because of the order that I read out the names.

Joanne McMeeking: I acknowledge Jasmin's petition, and it was incredibly heartening but also quite sad to hear what Laura had to say. It was good to hear that Jasmin had an excellent experience of being in care and being supported in aftercare and continuing care. It sounds like she had very strong advocates who had to tussle and argue for those rights.

To go back to your question about how that resonates with our experience of throughcare, aftercare and continuing care in Scotland, we know that the provision is patchy. We have a very progressive policy and legislative framework in Scotland around continuing care and aftercare, but we have a pervasive implementation gap.

When I listened to Jasmin, I heard her tell the story of a problem with implementation and a problem with consistency in that type of care for young people who need it and should get it. In many ways, young people are in those situations because things have not gone well for them at home, and a lot of the time they are experiencing trauma and difficulties in relation to education and family breakdown. If any group of young people needs more support, it is definitely care leavers and care-experienced young people.

At this point, provision in Scotland is patchy. It needs to speed up and be much better.

The Convener: When you say that the provision is patchy, do you mean that provision is patchy between geographical areas or that, within any geographical area, the provision can be patchy?

Joanne McMeeking: Sometimes it can be patchy within a local area in a local authority. In March 2022, CELCIS did a piece of research specifically on those issues in relation to the implementation of continuing care and aftercare.

The data tells us that there can be a difference in practice from area to area and sometimes from team to team, so it ain't just about one local authority or one area absolutely getting it right. It varies across local authorities, areas within those and teams.

The Convener: That is interesting.

Megan Farr (Children and Young People's Commissioner Scotland): I endorse what Joanne McMeeking said. We come across the same things. We get inquiries from a range of local authority areas, and we frequently see good and bad practice within the same local authority, so that is also very much our experience.

The Convener: Did you recognise that sentiment about the overwhelming nature of that situation for the individual—the responsibility that, in the absence of advocacy, people feel falls on them to progress things on their own behalf?

Megan Farr: Yes. Actually, that is a really difficult thing for any child or young person to do. It is something that we all learn to do as adults and are supported to do by our parents but, in these cases, the children are challenging their parents, because the local authority is their corporate parent. Therefore, they are fighting an uphill battle, because there is a large corporate body of policies and complexities and everything is against them. That situation is insurmountable for many young people, which is just not acceptable.

There is finally a commitment from the Scottish Government to fund access to advocacy, but people still are not aware of their entitlement to advocacy. Advocacy coverage is inconsistent—not all of it is necessarily of the quality that an organisation such as Who Cares? Scotland might provide and access to it is difficult for children to achieve. We hear about all the same inconsistencies that CELCIS found in its research.

The Convener: In what way is the office of the Children and Young People's Commissioner able to directly intervene in the way that the issue is progressed or understood?

Megan Farr: We have an inquiries service. It is not a large service and, by and large, we signpost to other organisations that can provide more in-depth and specialist support, but we support some individual inquiries where we can. There have been instances where we have been approached and we were particularly concerned about an area of practice. In such cases, we might do what is called action short of an investigation, such as writing a letter to express our concerns. By and large, we refer individuals on where we can, because we do not have the expertise of organisations such as Who Cares? Scotland.

We have formal investigatory powers, which we use in a targeted way. We are a small office—there are only 14 of us in total—and our advice and investigations team is small. We have not done an investigation into this. We have done work around it and, obviously, we have a policy function, so part of what we do is what I am doing here today, which is to relate some of the things that come to our attention and that are brought to our attention by children and young people, their families and organisations that we work with.

Fiona McFarlane (The Promise Scotland): I echo everything that my colleagues have said about what we are hearing on the ground. I will take a slightly different angle. We know that, in Scotland, we have had a history of progressive legislation. We know what we want to do, but we have not really worked out how to do it, how to enable some of the rights and entitlements that we already have and how to support their extension.

Therefore, sometimes, when we think about these things, we must think about what a system that would enable the type of support that we should provide—and which we would seek and hope to provide in the way that Jasmin Pilling outlined earlier—would look like. In my mind, that must look like a system that understands the needs of the care-experienced population. The duties sit with local authorities as implementing authorities. The National Care Service (Scotland) Bill was delayed yesterday. There was a question about whether children's services should be included in the national care service, so that has been a live question in Scotland for a while now. However, currently, the duties sit with local authorities.

Is this particular community at the forefront of elected members' minds when they set budgets and prioritise needs? Is there prioritisation and flexibility? That is absolutely critical. Young people should not be presenting, because we should know them anyway and should know who they are, so that there is upstream support. However, when a young person presents, do we have a flexible offer so that we can meet their needs? Are we empowering those who work in the implementing authorities so that they can provide a flexible offer?

Does the workforce have sufficient capacity to meet the needs that it faces? If there was someone from Social Work Scotland here today, I think that they might say that they do not currently have that capacity and that there is a crisis in social work. There is a significant lack of capacity in the system, which unfortunately means that people who are in need, and towards whom the state has a legislative duty as a corporate parent, are not having their needs met.

Do people in the workforce have sufficient knowledge and experience and the crucial support to be able to meet the needs of what is quite a different group? Joanne McMeeking and I were talking before the meeting about how working with young people who are transitioning into adulthood needs as much of a skill set as working with wee people. Is the workforce being supported to develop the skills and expertise to meet those needs?

Where is the accountability in the system? Some folk may not know that The Promise Scotland came out of the independent care review and that we are a separate organisation that has been set up to support change. We work on specific long-term projects and are about to report on the children's hearings system working group.

Jasmin Pilling was incredibly eloquent on an issue that has been identified by the CELCIS research and by other research, which is that there is a perverse incentive in the system to push children off an order when they are 16. We have to think very carefully about the impact of legislation that can create unwanted incentives in a system. There should be accountability in the children's hearings system for those decisions. This is absolutely about advocacy, which should be more accessible in the children's hearings system. We need to do more work on that, and The Promise Scotland will be doing more work on it shortly.

How much scrutiny is there of the panel that signs off on decisions? What competency do they have to be able to scrutinise a decision when a young person says that they want to get off an order or when local authority social workers say that a young person wants to get off an order? Does the panel really scrutinise that decision and test whether it is the right thing to do? We will shortly produce a report that will address some of those issues.

There is a system-wide issue that is about more than legislative entitlement, as crucial as that is. There is a mechanism to fix some of that, if that is the route that we want to go down with the forthcoming Promise bill, but it is really important that we scrutinise how the system enables the intentions and aims that we want it to achieve. We are not quite there at the moment and must pay more attention to that.

The Convener: That is helpful—thank you. For the benefit of those who might be following our proceedings elsewhere, can you explain the resources and infrastructure of The Promise Scotland?

Fiona McFarlane: We are a non-statutory company owned by Scottish ministers but have an independent board. We are a relatively small organisation: we have 23 staff at the moment. We

have a support function and work across local authorities and implementing authorities to support them to implement the Promise. We also have a policy and data function.

We have some key projects, one of which is the children's hearings system working group, which is chaired by Sheriff David Mackie, and we are working with Children's Hearings Scotland and the Scottish Children's Reporter Administration to redesign the children's hearings system. We also have a big project on data, which is really pertinent to how we get a wide understanding of the needs and experiences of the young people who are living in the system.

We also provide support to the scrutiny body, which is called the oversight board, and which Jasmin Pilling sits on. That is a group of 20 people, half of whom are care experienced. The group reports annually on our progress towards meeting the Promise and will be reporting shortly. We provide a secretariat support function to that group.

The Convener: That is great—thank you very much.

10:30

Alexander Stewart: I thank the witnesses for their presentations and the conversation so far. It has become evident from where we are, from what the witnesses have said and from what we have already heard, including information that I heard at last night's meeting, that the individuals that we are discussing are vulnerable people who are sometimes at a crossroads in their lives. In some instances, although not all, they are being failed, and some of them are being failed so seriously that they eventually choose to take their own lives because of the situations and circumstances that they have found themselves in.

I acknowledge that we have capacity issues and workforce issues, but it is very evident to me from hearing about the lived experiences of some individuals last night that some have struggled and that they continue to struggle even in the present day due to the experiences that they went through.

I acknowledge that you are all doing your bit in the process. However, the third sector is also doing a huge amount of work in this area, and it seems to be what is providing the safety net for some of these vulnerable individuals, rather than the authorities or the statutory groups that have been set up by Government to protect and support them.

I suggest that the whole area requires a root-and-branch review to ensure that progress is made. Jasmin-Kasaya Pilling's petition has identified some of the areas that we need to

consider seriously if we are to get this right. At the moment, we are not getting it right for many individuals.

You have talked about things being patchy, but many organisations are facing that in the current circumstances. You have a protective and supervisory role to manage and look after vulnerable individuals, but we are failing these individuals and failing in some of these communities. The legislation that has been talked about this morning is very important, but there needs to be a realisation by all your organisations of what you can achieve and what you might achieve going forward.

It would be useful to get a flavour of whether you think that what I have said is correct. Do you see that as being where the sector is at the moment? Do we have a crisis in some of these areas? If so, what would the response be, or what should it be? If we are putting forward such a thing as the Promise, can we actually fulfil it? Can we achieve it? My view, from what I am seeing and have heard over the past few days and today, is that we are failing some of these young people, which is not acceptable in any way, shape, or form.

The Convener: I am not sure who you are asking.

Alexander Stewart: I would like all the witnesses to say a little on that.

The Convener: Megan, will you take the lead on that question?

Megan Farr: I will, slightly nervously. I think that I would agree that we are failing in terms of what we are doing as a country—that is, what the state is doing. Human rights obligations lie with the state, and they include ensuring that there is maximum use of available resources to provide the services to ensure “progressive realisation”—that is the term that is used.

I think that Fiona McFarlane touched on the point that we have progressive legislation but we have possibly had less of the realisation, so far, of those rights. The responsibility lies with the state—the UK Government in terms of funding and the Scottish Government in terms of funding within devolved competences. Largely, they then devolve that responsibility—but not the obligation—to local authorities. It is probably fair to them to say that some of the service delivery is done by third sector organisations—by charities—but it is funded by local authorities and the Scottish Government. That is fine; it is appropriate and they have expertise. However, when decisions are made about budgets, they need to take account of the children's rights obligations of local authorities, the Scottish Government and the UK Government.

Something that we have talked about a lot—it is a bit geeky and technical—is children’s rights impact assessments and the importance of having an understanding of the impact of budget cuts, particularly when they are made to third sector organisations. We have been looking at that in the office and I think that it is an issue.

As I say, I absolutely agree that the system is failing. The question of where the responsibility lies is sometimes poorly understood by the public, but in human rights terms, it is really clear.

On our statutory role, we are not a service delivery organisation. We do what we can, but we do not have a statutory function to deliver services such as advocacy, and Parliament has chosen not to fund us to do that. Parliament chose to create the office, chose what our remit is and ultimately funds us, and we work within those confines. We also work within the confines of a statutory arrangement that means that our remit extends only to 21 for care-experienced children and 18 otherwise. We do what we can within our constraints but, actually, the duties lie with the state.

Fiona McFarlane: The question of failing is a mixed picture. You will not find a local authority in Scotland that is not working hard on the Promise. There are people all over the country and in national bodies who have picked the issue up and run with it and are owning it, and there are really good stories to tell. I will not labour the point by listing them all, but we know of local authorities that are, through the provision of much better family support, significantly and safely reducing the number of people who are entering the care system. We know that there are local authorities that have managed to shut residential children’s homes and have diverted the money into supporting children and young people in communities and in homes.

This is not something that needs another review; this is about persisting with the implementation of what we already have that we know works. What I was trying to say earlier is that we need to focus on how the system enables us to get to where we want to get to, and we need to do that persistently, always thinking about investment, budgets, governance, workforce and support planning. We need to keep going with that and have a level of stickability with it. If we do that, we will get there.

It is totally within Scotland’s gift to implement the Promise by 2030 because, in effect, at its absolute core, it involves two things—providing really good holistic family support that prevents children from going into the care system; and, if a child needs to go into the care system, ensuring that that system is characterised by love, fun and relationships and has a lifelong quality to it. If the state makes that

decision, it has a lifelong commitment to the young person. Those things are not beyond the wit of man. They are achievable; we just have to orientate the state and its resources to get us to the place where they can be done.

Joanne McMeeking: I back up the statement that we do not need another independent care review. We had an independent care review that was incredibly thorough, and we heard many thousands of voices—especially those of children, young people and families—telling us that things had to change and get better. I would certainly urge caution around any root-and-branch review. In Scotland, we have a long history of having to go back to the start again when we already know the answers and we just have to stick with what we know works.

However, as I have said before—this is a crucial point—the issue is not exclusive to children and families; it sits in lots of different areas. Yesterday, listening to the First Minister’s speech, I could hear the rub in the rhetoric around implementation gaps—“Here’s what we would like to do; here’s what we are saying we are doing; here’s what the legislation is telling us to do; but here is the lived reality for people in the moment.” The experience of those implementation gaps is felt really firmly by children, young people and families, especially those with care experience.

We also have to be empathetic towards the workforce. When they rock up every day, they really care and they want to make a difference, but they tell us that, at times, the system prevents them from being able to do a really good job.

We have a pretty cluttered legislative landscape in Scotland and I urge you to ensure that we do not step in again and clutter it further. We have not fully implemented the 2014 act—that is clearly what Jasmin Pilling and Laura Pasternak are telling us. The focus needs to be on ensuring that it is fully implemented so that children experience what they should be experiencing as children in a caring environment.

We know that there has been a shift in Scottish Government funding, with more money going towards early help and family support, and there is some really excellent work being done in local areas that needs to continue. We need more funding upstream so that we have fewer children coming into the care system in crisis and not being cared for properly. That is where the focus needs to be, but we still have a long way to go.

The final thing that I would say is that this area, especially, has not always been given enough priority, and progress needs to speed up. Working with young people, especially older young people, takes particular skill, and at times we do not have the workforce skills or the capacity to deliver the

type of intensive services that every young person who has been in or has left the care system deserves.

Alexander Stewart: Thank you.

The Convener: I call Fergus Ewing.

Fergus Ewing: I have a couple of questions, the first of which is about the 2014 act, which Joanne McMeeking said a moment ago has not been fully implemented. Just for my benefit—I am sorry to say that I do not have detailed knowledge of this—do you mean that parts of the act have not been commenced, or that everything is in force and in operation but has not yet been brought into practice?

Joanne McMeeking: It is the latter.

Fergus Ewing: That is all that I wanted to know.

Joanne McMeeking: Continuing care and aftercare are fully set out in legislation and are fully functional in local authorities and organisations in, say, the third sector. They are fully formed. The rub, though, is that they have not always been properly implemented and understood according to the letter of the law. Jasmin-Kasaya Pilling and Laura Pasternak talked earlier about the termination of CSOs; evidence that we have from our research suggests that that is happening and that some young people are coming off their orders too early.

Scrutiny in the children's hearings system is a priority. Those who are involved must, when they have a young person and, potentially, the caregiver sitting with them, understand fully whether that course of action is the right thing for that young person at that point in time.

Fergus Ewing: I have, from time to time, sat in on children's hearings and have been very impressed by the evident care and thoroughness that have been shown. Perhaps I was shown the best ones—I do not know—but I suspect that the people on the panel were very experienced. I was certainly very impressed.

What, in particular, are children's hearing panels not doing that they should be doing, and how can that be corrected? Is the reporter to the panel not pursuing certain aspects, or is the panel itself failing in certain ways? Can you be more specific about that? We will want to make recommendations about what precisely should be done. We have received evidence on a wide range of things.

Joanne McMeeking: I would not say that there is a failure of the children's hearings system, per se. Fiona McFarlane is, I think, a member of the children's hearings reform working group, so she will be able to give you a level of nuance that I cannot give.

There is a combination of factors. When a young person comes into the system or is in front of a children's hearing panel—especially children who are a little bit older—and there are conversations about their no longer needing to be on compulsory supervision, that assessment is done by the social worker and the people who sit in and around or work with the young person. The young person has a voice, too. However, the decision sits with the children's hearings system. What I am saying is that, at times, the system does not have the power to ensure that a supervision order is being properly implemented or that the decision is the right one at the time. There needs to be more scrutiny—

Fergus Ewing: Do you mean that the system does not have the powers in law?

Joanne McMeeking: The system has the powers in law. The people in the children's hearings system can say that they want the young person to be on a supervision order, and might attach a condition to the order that says that the young person needs child and adolescent mental health services support, or that they need life-story work. They will ask whether the social worker can do that or make a referral, or whether the team around the child can sort that out.

10:45

Sometimes, that does not happen, so the way in which the supervision order is supervised when the child leaves the children's hearings system is not always robust. That can be due to a resource issue, a capacity issue or being unable to meet the young person at that point in time. In many ways, the supervision order's effectiveness happens outwith the hearing.

Fergus Ewing: I see. It is not really the children's hearings system itself that is failing, but implementation or follow through.

Joanne McMeeking: The system also has a job on the day and in the moment to scrutinise the quality of support and the quality of decision making in that space.

Fergus Ewing: I will ask one more question.

Clearly, availability of sufficient funding is one of the major issues. Local authorities are under financial pressures and one feels, perhaps, that the third sector is very often the port of call when it comes to making funding reductions, either in total or in part.

Is it a serious issue that, very often, voluntary organisations that provide aspects of care in this area get funding on a hand-to-mouth, year-to-year basis? My experience of working with many such organisations in Inverness and the Highlands is that they often spend as much time trying to raise

the money that they need in order to function as they do actually functioning. Therefore, the problem is funding being year to year, and for even less than a year, in some cases.

Is that a serious issue? If so, is the answer to move to three-year or five-year funding, which would provide more security for organisations and would enable them to hire people more readily? People would also be more ready to be hired, rather than their not taking a position because it gives them only 12 months' security of tenure.

Joanne McMeeking: I will quickly answer that, and then pass you over to Fiona McFarlane, who is jumping up and down at the prospect of answering that question.

Short-term funding is incredibly difficult for organisations, especially in the current climate. It is very difficult to recruit, especially when organisations cannot give a commitment to staff that they will be there in a year's time or two years' time. People go to work because they care, particularly in these types of job, but they also go to work to earn money and to pay their mortgages. It can be very difficult to recruit the right people without the right level of commitment being made in terms of providing a job for three or five years.

Year-to-year funding is tricky—it causes a lot of problems, especially with regard to an organisation potentially having to chase money, and it causes a high level of uncertainty in respect of longer-term planning. It is a significant part of the instability in this area of our work. If the committee has any power—or if we have any power—to say that funding has to be secured in a different way for those organisations, I urge you, please, to do so.

Of course, under local authority commissioning arrangements, voluntary organisations must deliver. We would not be handing them a free pass or a golden ticket for three years. They absolutely must do their job properly, so there will be evaluations and robustness around that. However, I ask that you please lessen unpredictability for organisations, their staff and workforces and, ultimately, the young people and families with whom they work.

Fiona McFarlane: I will not add much to what Joanne McMeeking said.

We are talking about what the third sector is doing—it is providing statutory services on behalf of local authorities. It is not an add-on; it is provision of a statutory function. When I talked about looking behind the local authority desk and seeing what the system is, that is the core of it. It is about how we organise our influencing authorities and support them to deliver key statutory duties in a way that is, ultimately, best for

the children and young people who come through the system.

The other point to make about the social care workforce is on rates of pay, about which there have been lots of conversations. It is really important that the children's social care workforce be considered as part of the system and that we do not just siphon off adult social care, because if we do that, we will create a system in which some parts pay more and some parts pay less. Children and young people's services would be at the poor end of that, which is absolutely not where we need to end up. That is a real risk.

The Convener: What has been fascinating through the two evidence sessions this morning is the contradictions. In response to Alexander Stewart, there was an acceptance that we are not where we should be and that we are still failing. From Fiona McFarlane, there has been real enthusiasm about the commitment from so many individuals to deliver on the Promise and about the good work that is being done.

From Joanne McMeeking, we heard that there is a very progressive structure, but its effectiveness is patchy within authorities and departments, and that a big review is not what is needed. Rather, what is needed is a sustained commitment to make all the bits come together and happen.

Also, in response to Fergus Ewing's questions there was appreciation that the situation is not necessarily assisted by employment funding models, which make it difficult for some people to see the attraction in jobs.

I was about to sum up, but I am wondering whether Carol Mochan has a question. I have omitted to ask whether she would like to ask one, so I will come to Carol before I rush to a peroration.

Carol Mochan: That is no bother. I will be quite brief, because the information has been clear and I am incredibly supportive of what has come across.

Do you believe that the Government knows what needs to be done but is finding it difficult to make decisions about how to do it, or is the Government just not clear about what has to be done?

It seems to me that being a corporate parent is about the state, so as elected members we have responsibilities to hold people to account and to hold the Government to account. As experienced people, do you believe that the Government understands what has to happen and is just unable to deliver it, or do we need to be clearer about the stages that we need to go through to get what is needed to happen? It would be helpful for the committee to be clear about that.

Megan Farr: Thank you for the opportunity to speak on that.

The Promise makes it really clear. I meant to pick up that point earlier, in the discussion about the review. We do not need a root and branch review. We would be doing the children and young people—and the adults—who are care experienced and fit into the Promise a real disservice if we decided to have another review. It is really clear what needs to be done.

There is a question that has been discussed today around what I have heard referred to as the perverse incentive to have children come off orders. Coming off a compulsory supervision order could sound quite positive to a 15-year-old. However, more has to be done as part of the assessment in relation to the “best interests” decision. The decision needs to take into consideration the fact that, currently, when a 15-year-old comes off an order they lose the right to continuing care.

Fiona McFarlane can correct me if I am wrong, but one of the recommendations around 16-year-olds is to ensure that anyone who has been looked after has that entitlement, regardless of whether they are still on an order when they reach 16. That is a gap in the legislation that needs to be closed, but it is a relatively easy one to fix. It has resource implications that will have to be addressed. There is, however, a gap, with some children not being afforded the same rights as other children who have very similar experiences. That would also remove the issue of the potential incentive to take children off orders before they turn 16.

The other thing that really needs to be addressed is the implementation gap. That lies with the Scottish Government. The Promise says what it needs in terms of what needs to happen. I think that Fiona McFarlane could go into more detail on that.

Fiona McFarlane: In terms of what the committee might say, there was a commitment to a bill on the Promise in the previous Scottish Government implementation plan. I did not see that in the document that was produced yesterday, but I understand from civil servants that it is still in motion. There is a legislative mechanism to fix things in the 2014 act. That is something that the committee could recommend—that would be positive.

Does the Government understand what needs to happen? Yes, it does: there is the same commitment in Government as we see in local authorities and national bodies. That commitment is absolutely there.

The question about the national care service has complicated the issue a bit. The potential

taking on of children’s services and community justice services and the delay in that decision has raised the question of where the statutory duties sit. That is a live question that has caused difficulties for the Government’s plan.

However, there are other important things in train around, for example, a national social work agency and advanced practitioners in social work. There are really good things happening, but there is probably confusion at the moment about the central organising principle around which that would sit, and I think that the National Care Service (Scotland) Bill has made that a little bit trickier.

Megan Farr: The lack of detail in the National Care Service (Scotland) Bill regarding children and young people’s services is disappointing. We have raised that when we responded to the Scottish Government consultation and in evidence. Children’s social care services—especially if we start bringing in things including health visiting and early years and childcare—are in a complex landscape. They are also universal services in a way that adult social care services are not.

We already have the Promise, which has detailed information about one segment of that that was barely mentioned in the consultation—there were literally only two pages on children. That means that, in terms of the national care service, there is a gap in our understanding of the rest of children’s social care, including services for children with disabilities. The introduction of the national care service complicates the landscape, and what makes that worse is that there is so little detail. I repeat our previous evidence: there needs to be proper parliamentary scrutiny of how children’s services are to be incorporated into the national care service.

Joanne McMeeking: I will just add that a research group has undertaken a piece of research specifically on the potential role of children’s services within the national care service—if it actually gets off the ground. I urge the committee to lean into what comes out of that research when it is completed. There might be questions about children’s services coming from that.

Like my colleagues beside me, I emphasise that the lack of detail about children’s services in the National Care Service (Scotland) Bill has been a concern. There is a worry that it will take us away from where we need to be. We must stay with the stickability piece and try and sort out the 2014 act to ensure that we deliver what we have said we will deliver for children and young people and their families.

Finally, there is the matter of patchy provision. For a young person who has received a patchy

service it can be difficult to hear us describe it as “patchy” because, ultimately, there are points all the way through our lives when we need the state to help and support us, whether as a child, a family member, an adult or an older person. I would not want someone to say to me that I might get a patchy service.

We know that, in Scotland, we do not have socially significant outcomes for all our citizens despite our having progressive legislation. That is where the rub is: we have to get to the point at which everyone tells us that they have had a really good service—that they have had the gold standard and have had excellent quality care and love from the care system. At the moment, we cannot say that with our hands on our hearts. It is difficult to have to tell you that. I come to work every day and try hard to make that happen.

The Convener: Thank you very much. I do not need to complete my peroration because Carol Mochan invited you to do exactly that—to make further specific points that you wanted to put to us. You have all managed to do that. We have ended on an aim and goal that are highly aspirational.

As MPs, we all recognise your comments. Constituents contact us all the time in relation to many different issues. For constituent A, everything will have gone remarkably well and they contact us to tell us so, but constituent B, who might be knocking on the same door, will come back to say that, for whatever reason, that has not happened for them.

As Joanne McMeeking said, we cannot advertise services as a lottery. People should expect to receive—particularly in matters in which people are so vulnerable and need to know that they will get a positive outcome—outcomes that are as every bit as positive as the one that we heard about from Jasmin-Kasaya Pilling earlier.

I thank you all for participating in our work this morning.

Colleagues, are you content to consider the evidence that we have heard at a later meeting of the committee?

Members *indicated agreement.*

The Convener: I suspend the meeting.

11:00

Meeting suspended.

11:03

On resuming—

A75 (Upgrade) (PE1610)

A77 (Upgrade) (PE1657)

The Convener: We will now consider further continued petitions with PE1610, on upgrading the A75, and PE1657, on upgrading the A77.

PE1610, which was lodged by Matt Halliday, calls on the Scottish Parliament to urge the Scottish Government to upgrade the A75 Euro-route to dual carriageway for its entirety as soon as possible. PE1657, which was lodged by Donald McHarrie on behalf of A77 Action Group, calls on the Scottish Parliament to urge the Scottish Government to dual the A77 from Ayr Whitletts roundabout south to the two ferry ports located at Cairnryan, including the point at which the A77 connects with the A75.

We previously considered the petitions at our meeting on 28 September, when we agreed to write to the Cabinet Secretary for Net Zero, Energy and Transport. The committee has received a response from Jenny Gilruth, who was the minister at the time, that acknowledges the need for improvements to both roads and highlights that the strategic transport projects review 2

“recommends that safety, resilience and reliability improvements”

be made. The minister notes that the south-west Scotland transport study

“does not recommend ... full dualling”

of either road, but recommends “targeted ... improvements” instead. The submission also states that a delivery plan to prioritise STPR2 will be released later this year.

We have received written submissions from both petitioners, drawing our attention to a newly published A75 and A77 economic impacts report, which was commissioned by Dumfries and Galloway Council, South Ayrshire Council and Mid and East Antrim Council and was undertaken by independent transport consultancy Sweco UK. The study found that dualling would bring £5 billion of “positive benefits” to the UK economy, such as reduced journey times and vehicle operating costs.

Finlay Carson is unable to join us this morning, but he, too, has provided us with a written submission. He has also highlighted the report, noting its finding that dualling would bring

“environmental gains, including CO₂ emissions reduction.”

I have also received—and I hope that colleagues, too, have received it—a submission from Emma

Harper MSP in which she reiterates her support for the petition and draws attention to objectives, recommendations that have been made and her work with the representative action groups.

Colleagues, on the basis of the submissions that we have received, what recommendations would you like to make?

Fergus Ewing: We should keep the petition open. Quite obviously, these are very important matters to the petitioners and to people in this part of Scotland. I represent the Highlands and have been known to mention other roads—

The Convener: To which we might come.

Fergus Ewing: —to which I expect we will come, but, in the interests of equity, we should say that many parts of rural Scotland have roads that are not up to scratch or not fit for purpose. Emma Harper has made the point that one reason for keeping the petition open is that we do not have timescales for the implementation of the proposed works, which is an issue that we could perhaps press.

On a wider note, I am struck by the substantial costs of upgrading or doing anything to roads, especially dualing them. We are certainly talking about hundreds of millions of pounds for relatively short sections. However, I am also conscious of the safety issues, particularly the number of deaths, on roads in the Highlands and on many trunk roads around the country.

We should keep the petition open. We need to ask more questions; I have identified only one, but colleagues might well have others.

Alexander Stewart: I concur with Fergus Ewing that we should continue to seek clarity. We now have a new transport minister in the form of Kevin Stewart, and it would be useful to highlight the key findings of the economic impact report and the issues that our colleagues Emma Harper and Finlay Carson have identified in their submissions and seek a response from the Government on how things should be managed. That is something that we could do to get clarity and move things forward.

The Convener: The recommendation that we write to the minister is sensible, particularly given that we have this new economic impact report, with its projection of billions of pounds from which the economy could benefit. Are we agreed?

Members indicated agreement.

Reusable Water Bottles (PE1896)

The Convener: We now return to Callum Isted's petition, PE1896, on providing every primary school child in Scotland with a reusable water bottle.

We last considered the petition on 22 February, when we heard evidence from the Minister for Green Skills, Circular Economy and Biodiversity, Lorna Slater, and the head of the Scottish Government's support and wellbeing unit, Laura Meikle. Members will recall that, at that evidence session, the minister reiterated the Scottish Government's view that it is up to local authorities to decide their budgets and how drinking water is provided, although they are required to ensure that drinking water is made available free of charge and provided in a sustainable way.

We also heard that on-going monitoring of the duties under the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 takes place through nutrition inspections and engagement with catering services and education authorities. However, members raised questions about the availability of detailed evidence from each local authority.

As members might recall, there was an outstanding commitment from the former First Minister to invite young Callum to Bute house, but I am afraid that that commitment cannot be fulfilled, because the building is now covered in building tape and closed for renovations that might take some considerable time to complete. Notwithstanding that unfulfilled promise, do colleagues have any suggestions?

Fergus Ewing: We should encourage the current First Minister to meet Callum Isted—although perhaps not in Bute house, given what you have said, convener. I am sure that the First Minister would like to do that.

We should also seek from the minister an assurance that she will request information from each local authority on water provision in schools. Specifically, we should seek some detail on the methods of provision and how sustainability requirements are met.

In addition, it occurred to me that it would be remiss of us if, in our letter to the minister, we did not specifically invite her to refer to and describe her response to Callum's petition and if we did not ask local authorities, first, whether they would wish to be part of a national procurement scheme that could implement the petition and, secondly, whether that would be more efficacious in providing a reliable and continuously available supply of water to children. The minister said that the provision of water is up to schools, and they do that in different ways—for example, through water fountains. Often, however, such things do not work or are not available when somebody wants a drink of water.

Everybody knows that it is handy to have a bottle of water. You can take it everywhere with you and keep hydrated all the time. Hydration is

important for children, but most of them do not really realise that. That might be a patronising remark, but there is a risk that they do not appreciate how important it is to be hydrated in order to be alert and able to concentrate.

There is a big difference between a water fountain that might be available for several hundred kids—

The Convener: And which can be closed in a national pandemic, aside from anything else.

Fergus Ewing: Indeed.

We should encourage the minister to set out in a letter Callum Isted's proposal as a potential option. The question is whether local authorities would like that to be done and whether they would like the Scottish Government to take on the responsibility of looking into procurement. As I pointed out to the minister, somewhat in vain, if a national procurement scheme is better able to get the best price possible in such an exercise and can do so in a way that improves provision, we owe it to Callum—as does the minister—to ensure that that is done.

The Convener: Did you want to come in, Carol?

Carol Mochan: No, I was just going to agree.

The Convener: I fully agree with Fergus Ewing. The petition is, at heart, about the introduction of reusable metal bottles through some method. I would have thought that the minister would be keen on that, as it would alleviate the pressures of implementing of her deposit return scheme if young people were not contributing to the situation and were able to adopt reusable facilities as an alternative.

Fergus Ewing: I would always encourage the minister to be as green as possible, convener.

The Convener: The clerks have absorbed the suggestions that have been made in the discussion. We look forward to hearing from the minister and, indeed, from the First Minister, who would benefit from the commitment to, enthusiasm for and sustainability in his cause that young Callum Isted has managed to offer.

Cemeteries (Local Authority Actions) (PE1941)

The Convener: PE1941, which was lodged by Councillor Andrew Stewart Wood, calls on the Scottish Parliament to urge the Scottish Government to monitor and regulate actions taken by local authorities when undertaking the statutory duty of ensuring health and safety within cemeteries.

Colleagues will remember that, on 8 February, we heard evidence from Councillor Wood and

Desmond Barr from the Friends of Hawkhead Cemetery. During that evidence session, witnesses raised concerns that a policy established as a consequence of a tragic fatality from a large headstone had led to regulations being applied to much smaller and less dangerous headstones in a destructive way and without notice.

We heard that the Scottish Government guidance on health and safety in graveyards is "very good" but that it is not always followed by local authorities due to budgetary pressures. Witnesses highlighted improved communication with lair owners as a key part of any change and suggested the introduction of an independent auditor to check that local authorities are following the Scottish Government's guidance. The petitioner was in favour of introducing a national standard to ensure that processes are followed and communication with lair owners is maintained.

There is quite a tricky narrative in relation to the petition. Do colleagues have suggestions as to how we might proceed?

Alexander Stewart: There is much more to the matter than it first appears, as we found out when we took evidence, and there are options that we can consider. It is important that we write to the Scottish Government burial, cremation, anatomy and death certification team, highlighting the issues that we heard about during the evidence session and seeking information on the planned public consultation on draft regulations under the Burial and Cremation (Scotland) Act 2016. We should also ask about the expected timescales, as that is an important issue for the petitioners. That is my recommendation, convener.

The Convener: Are we content to proceed on that basis?

11:15

Fergus Ewing: I think that I am correct in saying—I have just looked, but I could not find the relevant part of the oral evidence—that there is a lack of clarity about the legal responsibility for ensuring the safety of people who visit cemeteries and for dealing with the risk of headstones falling over. If there is such a lack, I think that we could invite the Scottish Government to indicate whether it believes that it should provide clarity by allocating specific legal responsibility for safety in cemeteries, quite possibly to local authorities, as they would appear to be the only public bodies that could be endowed with or given that responsibility.

If there is some lack of clarity, in the event of any further ghastly incident or accident, the victim or their family could be left in the virtually legally impossible situation of having no clarity and no

redress against anyone. Therefore, I think that it behoves the committee at least to ask the Scottish Government to consider whether that could be done and, if not, why not.

In a modern, civilised society, there needs to be clarity on such matters. Of course, property owners have very clear responsibilities in law, but if you do not know who the property owner is, you face a very difficult task indeed. Fortunately, we are talking about something that probably happens only rarely, but we should at least ask about the issue, as the Scottish Government could provide clarification.

The Convener: Are members happy to accommodate that proposal, too?

Members indicated agreement.

The Convener: We will keep the petition open and progress on that basis.

Unexplained Deaths (PE1948)

The Convener: PE1948, which was lodged by Alex O’Kane, calls on the Scottish Parliament to urge the Scottish Government to encourage Police Scotland to review its practices for dealing with unexplained deaths, from initial recovery through to the support that is offered to family members.

I am sure that members will recall that, on 22 February, we heard evidence—it was very difficult evidence to hear—from Stephanie Bonner in relation to the experience that she had in investigating the death of her 19-year-old son, Rhys, and her concerns about the way in which the police handled the issue, and the presumptions and assumptions that were made, based on her son’s age and where he lived, which left her in the intolerable position of having to conduct her own inquiries in an attempt to establish answers.

On the issue of support to families, Stephanie shared the fact that she did not feel that she was supported by Police Scotland. She felt that she was met with nothing more than a wall of silence following her initiation of a complaint. She called for unexplained deaths to be treated as a matter for immediate investigation. She believed that it should be a standard expectation that a proactive approach will be taken, that doors will be knocked on and that family liaison officers will be embedded in the process.

Although we are unable to look into the specifics of Stephanie’s experience, because that goes beyond the committee’s remit, her evidence was definitely helpful in illustrating the issues that the petition raises. Now that members have had an opportunity to reflect on her evidence, are there any suggestions that they wish to make about what action we might take?

Alexander Stewart: As you identified, the evidence that we had from Stephanie Bonner was quite compelling. I think that there are areas that we can ask Police Scotland about in order to take forward the petition. It might be useful to find out how many complaints it has received about the way in which it has investigated unexplained deaths in the past five years, how many of those were upheld and what the main failings were that were identified in the complaints that were upheld.

It is important that we possibly also look at the review of the investigation of deaths, the national guidance that we have and the steps that are planned to ensure that updated guidance is fully implemented. As you identified, convener, many issues came out of the evidence session that we are not able to look into specifically, but I think that these areas would give us clarity about what Police Scotland are doing and how the police are moving forward to manage the process that was identified during the session.

The Convener: I would very much like the letter to be framed in the context of the evidence that we heard during the session, in particular, because I would like Police Scotland to be aware that we heard quite harrowing testimony that we found compelling and that is what underpins our questions. We are not just asking them because we feel that we should ask something; we are asking them because we really feel motivated to do so, given the experience that we heard about from Stephanie Bonner. Are we agreed?

Members indicated agreement.

Evusheld Antibody Treatment (PE1950)

The Convener: PE1950, which is on ensuring that immunosuppressed people in Scotland can access the Evusheld antibody treatment, was lodged by Alex Marshall. It calls on the Scottish Parliament to urge the Scottish Government via the national health service to make that treatment available for people who have a zero or weak response to Covid-19 vaccines.

Members will recall that we are considering this petition now having heard evidence remotely on 8 February from Mark Oakley and Nikola Brigden, who are members of the Evusheld for the UK campaign group. Their view at the time was that, although it might not be a magic bullet, it can support immunosuppressed individuals to have more confidence when undertaking activities such as spending time with family and friends or using public transport.

I think that, as much as anything, the evidence session identified to the committee that, although the world has moved on from the Covid pandemic, there are still a number of people in our society whose everyday life is seriously compromised by

it. Having just come back from a few days in London, I am very struck that you would not know that there had ever been a pandemic, in the sense that life has moved back to what it was. I think that everybody just assumes that that is the case for everyone, when, in fact, our evidence demonstrated that, for some people, it is still a very live concern.

Members might be aware that, since our previous consideration, the National Institute for Health and Care Excellence has issued draft guidance, which does not recommend Evusheld for preventing Covid-19 in adults who are unlikely to have an adequate immune response to the Covid-19 vaccination or who cannot be vaccinated. As part of that announcement, NICE indicated that it is developing a new review process to update recommendations on the cost effectiveness of Covid-19 treatments so that they can be made available much more quickly to patients.

It was obviously the case that, by the time we first considered the petition, the national situation had advanced considerably from the position that had been achieved by the point that the petition was lodged, and, if Evusheld had been effective, it would have been a heck of a long lead time before it would have been made available. Therefore, the review of the way in which NICE will progress treatments is very much to be welcomed. Do members have any questions or comments?

Alexander Stewart: Under the circumstances, I think that we do not have much option other than to close the petition under rule 15.7 of standing orders. As you have already identified, NICE does not recommend the use of Evusheld for vulnerable adults who are at high risk of Covid-19, because there is not enough evidence. In addition, the petitioner no longer wishes to pursue the petition, due to the ineffectiveness of Evusheld against emerging variants. I do not think that we have any other course than to close the petition.

The Convener: Is the committee agreed that we do so, while noting and understanding the continuing situation for a significant number of people, which is not now so obviously in the public eye, as they continue to deal with the ramifications of Covid-19?

Members indicated agreement.

New Petitions

11:24

The Convener: Agenda item 2 is consideration of new petitions. As I always do for the benefit of those who might be following our proceedings, I want first of all to indicate that we take soundings in relation to petitions and seek, in particular, an initial view from the Scottish Government and the Parliament's impartial research service to ensure that, even at the start of our consideration, we have some informed opinion.

Monarchy (Legal Loopholes) (PE1998)

The Convener: The first new petition is PE1998, on ending legal loopholes for the monarchy. The petition has been lodged by Tristan Gray on behalf of Our Republic and calls on the Scottish Parliament to urge the Scottish Government to legislate to abolish adaptations and exemptions to legislation requested by the monarchy; to ensure that all future communications between the monarch, the Scottish Government and the Scottish Parliament with representatives of the monarchy are fully transparent and public; to publish details of all cases where laws have been adapted at the request of the monarchy; and to prevent any such alterations to our laws from being implemented in the future.

The Scottish Government's response to the petition states that

"seeking Crown consent is a requirement under the Scotland Act 1998"

and that it is required

"to follow the same rules that apply to UK Bills when it comes to seeking consent from the Royal Household."

I should also say, for the avoidance of doubt, that the 1998 act is outwith the responsibility of this Parliament.

On the issue of sharing correspondence between the monarchy, the Scottish Government and the Scottish Parliament, the response notes the importance of confidentiality in order

"to hold free and frank discussions".

The Scottish Government also states that it

"does not record how Bills have changed as they have been developed or where stakeholders have queried aspects of that legislation"

—at all, I would presume.

Do members have any questions or suggestions in view of that directive response from the Scottish Government?

Alexander Stewart: Convener, you have already explained our position on this, and I think that the petitioner, too, must understand that, in reality, very little can be achieved under the circumstances. I therefore think that we have no other course but to close the petition. For a start, the Scottish Parliament cannot pass legislation to remove the legal requirement to seek consent. Moreover, as the correspondence from the Scottish Government points out, there is an issue of confidentiality with regard to the royal household, and

“to maintain the ability to have free and frank discussions”

that confidentiality needs to be “recognised and respected”.

According to the Scottish Government, too,

“the detail of ... cases where laws have been adapted at the request of the Monarchy”

cannot be provided, because the

“Scottish Government does not record”

that sort of thing.

We acknowledge the petition, but unfortunately, for the reasons that I have set out, I do not think that we can do anything but close it.

The Convener: Are colleagues content to close the petition, given the Scottish Government’s advice and the limitations on the powers of the Parliament?

Members *indicated agreement.*

The Convener: I thank the petitioner for lodging the petition. However, as the petitioner will understand, it appears that there is no route open to the committee to take forward the petition’s aims.

Universities (Accountability) (PE2000)

The Convener: PE2000, which has been lodged by Dr Marie Oldfield, calls on the Scottish Parliament to urge the Scottish Government to ensure that universities are held accountable to students under consumer protection law by extending the remit of the Scottish Public Services Ombudsman or by creating a new body, similar to the Office of the Independent Adjudicator for Higher Education, to enable students to access redress without the need for court action.

Members will be aware that a similar petition—PE1769—was considered by our predecessor committee in the previous parliamentary session. It was closed on the basis that the Scottish Government had no plans to seek to extend the SPSO’s existing powers and that the Scottish Funding Council had stated that there was no evidence that the current approach had not been

effective in protecting the interests and rights of students.

In its response to this new petition, the Scottish Government highlights that higher education institutions are “autonomous bodies” with their

“own arrangements for handling complaints from students”

and that

“Any individual who is not satisfied with the outcome of the” university’s

“complaints process may refer the issue to the Scottish Public Services Ombudsman”.

As noted in response to the previous petition, the remit of the SPSO does not apply to matters of academic judgment.

The briefing that we have received from the Scottish Parliament information centre also notes that consumer protection legislation remains a reserved matter, with the Scottish Government highlighting that Scottish ministers have no power to legislate on the

“redress and enforcement aspects of consumer protection”.

We have also received a submission from the petitioner. In it, Dr Oldfield calls for the consideration of

“a more joined up approach from existing bodies”,

including the SPSO and the Quality Assurance Agency, and also raises concerns about the policy and decision-making processes of those bodies.

Do members have any comments or suggestions as to how we might take matters forward?

Alexander Stewart: We could take the opportunity to write to Universities Scotland and the National Union of Students Scotland to seek their views on the issue raised in the petition, specifically on the question whether they support a review of the complaints procedure for higher education institutions and the SPSO’s remit in relation to these processes. That would be my recommendation, convener.

The Convener: I am quite keen to hear those views.

Fergus Ewing: I agree with Alexander Stewart. In the letter, we could point out that redress and enforcement aspects remain reserved to the UK, so that it is clear that our remit is constrained.

11:30

We could also refer to the fact that there has been a previous petition, and briefly append that petition and set out the outcome and the reasons therefore. Although I am keen to hear from Universities Scotland and NUS Scotland, we may

well, when we hear from them, find ourselves in a rather similar situation to that of our predecessor committee. We owe them a hearing, but we should not raise expectations too high that we may not be able to fulfil.

The Convener: That is perfectly reasonable. Are colleagues agreed?

Members indicated agreement.

Schools (Transgender Guidance) (PE2001)

The Convener: PE2001, which has been lodged by E Phillips on behalf of Safeguarding Our Schools Scotland, calls on the Scottish Parliament to urge the Scottish Government to withdraw the “Supporting transgender young people in schools: guidance for Scottish schools” resource and await the outcome of the Cass review before developing a new resource.

In her response to the petition, the then Cabinet Secretary for Education and Skills, Shirley-Ann Somerville, stated that:

“Development of the guidance for schools was informed by key stakeholder groups, including LGBT organisations, women’s groups, education organisations and teaching unions.”

The cabinet secretary also suggested that,

“It is wrong to claim that the guidance recommends that young people are encouraged to socially transition.”

Her response notes that,

“the Cass Review ... only extends to current and future services offered by NHS England”,

but she states that,

“The Scottish Government and NHS Scotland will closely consider the ongoing findings of the ... Review within the context of NHS Scotland services”.

The committee has also received a submission from the petitioner that highlights that the Equality and Human Rights Commission is reviewing its technical guidance for schools with regard to evolving policy on issues of gender identity. The petitioner also raises concerns about the statistics that are used in the Scottish Government’s guidance and the organisations that are signposted as part of the guidance, as well as highlighting an impact statement from a parent with personal experience of how the guidance subsequently impacted on their family.

The petition raises some important issues. Do members have any suggestions as to how we might seek to proceed?

As there are no suggestions from members, I am minded to suggest that we write to some stakeholders who would be able to help inform our understanding, including the Convention of Scottish Local Authorities, the National Gender

Identity Clinical Network for Scotland and LGBT Youth Scotland. Are there any other suggestions from colleagues to add to that list?

Alexander Stewart: Those organisations are all very important, but I think that we also need to talk to the Scottish Trans Alliance, because it has a role to play in all of this. We can get some views from the National Parent Forum of Scotland and from Connect—formerly the Scottish Parent Teacher Council—as well.

It might also be useful for us to write to the Equality and Human Rights Commission to seek information on the review of the technical guidance for schools in Scotland. As you identified, convener, the situation is not the same south of the border and we need to look at what we are doing here in Scotland itself, so that would be useful.

The Convener: I am aware that there is considerable interest in the petition. Are colleagues content that we progress it by contacting those various organisation for their views?

Members indicated agreement.

Legal Aid (People with Disabilities) (PE2002)

The Convener: PE2002, which has been lodged by Grant White, urges the Scottish Government to provide increased funding for legal aid in civil cases to ensure access for people with disabilities. The Scottish Parliament information centre briefing highlights the Law Society of Scotland’s campaign on access to legal aid and its research, which found that there was a lack of solicitors offering legal aid based in deprived communities.

The Scottish Government’s response to the petition states:

“The Scottish Legal Aid Board ... apply means and merits tests to determine eligibility”

for the legal aid fund. It goes on to state:

“Neither Ministers nor the Scottish Legal Aid Board ... can compel solicitors to provide advice and representation.”

The response also outlines measures that are being introduced to improve access to legal aid.

The petitioner’s written submission details his experience, which highlights the challenge in obtaining a solicitor. He states that he has contacted nearly 100 firms, all of which stated that they could not take on his case. He concludes by stating:

“my experience is that there are too few solicitors who carry out legal aid work and those who do legal aid cases do not have the capacity to take on any more because of the lack of funding.”

Well, there we are. Do members have any comments or suggestions as to how we might proceed in relation to the petition?

Fergus Ewing: This is a problem of access to justice that seems to be growing. I am aware that the Scottish Government intends to introduce a legal aid reform bill and an uplift of 10 per cent to legal fees. That is welcome as far as it goes, but it is a serious matter for someone to be unable to access legal aid at all. No access is effectively justice denied.

I think that we should write to the Law Society of Scotland to seek its view on the action that the petition calls for, and for information about its campaign on access to legal aid, in particular as it relates to people with disabilities. We have a duty to explore that aspect.

We should also write to the Scottish Legal Aid Board to ask whether it intends to undertake a monitoring report on access to legal aid for people with disabilities and if not, why not. We have a duty to ensure that that particular category of vulnerable people has access to justice, and we need to find out what barriers there are. It could be useful to provide that information to the Scottish Government in order to inform its intended law reform and perhaps influence that process down the line.

The Convener: Are colleagues content?

Members *indicated agreement.*

The Convener: It does seem ridiculous that an individual in such circumstances should have contacted 100 people only to receive 100 rebuffs as he tried to access justice. It is an important petition, and we will take it forward.

That is the final new petition this morning, so I now close the meeting. We will meet again on Wednesday 3 May.

11:37

Meeting continued in private until 11:46.

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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