



OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 6 December 2023

Session 6



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Pàrlamaid na h-Alba

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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE
18th Meeting 2023, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Foysool Choudhury (Lothian) (Lab)

*Fergus Ewing (Inverness and Nairn) (SNP)

*Maurice Golden (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Clare Adamson (Motherwell and Wishaw) (SNP)

Jackie Baillie (Dumbarton) (Lab)

Dr Lucy Hunter Blackburn

Lisa Mackenzie

Alexander Stewart (Mid Scotland and Fife) (Con)

CLERK TO THE COMMITTEE

Jyoti Chandola

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 6 December 2023

[The Convener opened the meeting at 09:36]

Decision on Taking Business in Private

The Convener (Jackson Carlaw): Good morning, and welcome to the 18th meeting in 2023 of the Citizen Participation and Public Petitions Committee.

For the benefit of colleagues, item 1 is to agree to take agenda items 4 and 5, which is consideration of revised guidance and written submissions, in private. Are members happy to do so?

Members indicated agreement.

Continued Petitions

Rape Charges and Convictions (Record of Sex) (PE1876)

The Convener: Item 2 is consideration of continued petitions, the first of which is PE1876, on accurately recording the sex of people who are charged with or convicted of rape or attempted rape. The petition has been lodged by Lucy Hunter Blackburn, Lisa Mackenzie and Kath Murray, and I am pleased to welcome Lucy Hunter Blackburn and Lisa Mackenzie to the committee; good morning to you both.

The petition calls on the Scottish Parliament to urge the Scottish Government to require Police Scotland, the Crown Office and the Scottish Courts and Tribunals Service to accurately record the sex of people who are charged with or convicted of rape or attempted rape. We last considered the petition at our meeting on 22 March, when we agreed to write to the Scottish crime recording board and Police Scotland, and to invite the petitioners to give evidence.

Before we move to the substance of today's consideration of the petition, I should note that the committee has received responses from the Scottish crime recording board and Police Scotland, as well as a further written submission from the petitioners responding to those responses.

In its response, the Scottish crime recording board advised that its remit focuses solely on the police recorded crime national statistics, which measure crimes, not people, and it has never included the recording of demographic details of suspects or perpetrators. Police Scotland indicated that a review of its recording policy is progressing through its internal governance processes and, if approved by the professionalism, strategy and engagement management board, it will be subject to wider consultation with relevant stakeholders. Police Scotland also carried out a manual review of its recorded crime data for rape. It states that, although it is unable to confirm the biological sex of those who were recorded in the statistics,

"none of the females recorded for the crime of rape were involved in the physical act itself ... In all cases, their involvement was art and part (aiding or abetting in the perpetration of the crime)".

In light of those responses and the evidence that has been gathered throughout the consideration of the petition, the committee has a number of questions that we would like to explore with the petitioners today. Is there anything that you would like to say in advance of us doing so?

Dr Lucy Hunter Blackburn: If it would be helpful, convener, I have a few opening comments.

The Convener: I am quite happy for you to speak.

Dr Hunter Blackburn: Our petition was lodged on 7 June 2021, which is two and a half years ago. First, we thank the committee for pursuing it so diligently with the various organisations. During the course of that, you have accumulated a lot of material and a lot of questions that you could ask, but we want to say that our point here is very simple: rape is a male crime, and when a man rapes a woman, he should be recorded always, in all the statistics, as a man, or as a male person. That is the most important point that lies behind all the detail that we could explore this morning. I want to start there.

There has been a long-standing failure to deal with the issue. Police Scotland's policy on crime recording generally, not just specific to rape, was raised by Joan McAlpine in the Parliament in March 2019. The then justice secretary gave a reply that I regret to say I would call specious.

We noticed the recording of female rape in the 2018-19 criminal proceedings data and we asked the Scottish Government about it. It told us that it had to check newspaper reports to see whether it was right. Later, it said that it would amend the stats, but we notice that it has yet to do so.

There are four points that we think matter here, the first of which is trust in statistics. The statistics are important and they need to be right. The public trust in statistics rests on them being solid, reliable and correct.

There is also a point to be made about responsibility. A lot of the paperwork and exchanges show public bodies playing ping-pong with the issue and failing to take responsibility for it. It is not difficult. Police Scotland has ownership of its stats so it should own the decision. It should just make the decision, and it should be asked to make the right decision.

There is a moral obligation to victims. Michelle Thomson made that point very forcefully to the committee at an earlier stage. It is not acceptable that a victim of rape, who could be a man as well as a woman, but predominantly we are talking about women, should have to see the state and the system rebadge a person who raped them as a woman when they know fine well it was a man.

The Andrew Miller case illustrates that strongly. Andrew Miller was recorded as a man because he chose to be. We have that on the court records. Andrew Miller, who was arrested wearing a prosthetic bra—

The Convener: We have to be careful about the discussion of cases that are actively alive in court procedures at the moment, as is the one to which you are referring. I would be grateful if you perhaps did not refer specifically to something that is sub judice.

Dr Hunter Blackburn: Shall I talk about his conviction, which is not under review? It is only his sentencing that is under review. He is not challenging his conviction for sexual assault, just the sentencing. He was arrested wearing women's underwear. He was known in his community as Amy George, and he was allowed to have himself recorded as a man.

The Convener: It would be better to talk in general terms about the policy, because I am worried that we will prejudice in some way the wider consideration of these issues.

Dr Hunter Blackburn: I understand, convener.

The Convener: I understand how difficult that is, and the timing of when anything takes place is always a factor in such matters. Unfortunately, we are not immune when we are in this building in the way that members might be at Westminster.

Dr Hunter Blackburn: The point that I would like to make is that, without naming anyone, we have evidence that it is open to individuals who have been convicted of serious sexual assault to choose whether to be recorded as a man or a woman. We think that that is down to Police Scotland. The outgoing chief constable said that the force was institutionally sexist, and we cannot think of anything more misogynist than a man being able to choose whether he is recorded as the sex he is or the opposite one. We think that that is wrong in this context and in these kinds of cases. That is where we would like to start.

Lisa, is there anything to add?

Lisa Mackenzie: No.

The Convener: I invite my colleague Fergus Ewing to lead the questioning.

Fergus Ewing (Inverness and Nairn) (SNP): Thank you, convener, and good morning to our witnesses. Thank you for appearing. As you have alluded to, the committee was keen to give you the opportunity and to hear what you have to say.

You might have already answered my question, Dr Blackburn, but what is the aim of the petition? What would you like to see happening? You have made your views clear, and I am grateful for that, but I am curious to know what you would like to happen and what in particular you would like to see changed.

Dr Hunter Blackburn: We are grateful for the attention that the committee has paid to the petition. It feels as though the system is difficult

and impenetrable to people. Where do we go? You write to public bodies and they just bat the issue around. We would like the committee to provide the ethical leadership that is lacking in Police Scotland and the Government. We would like the committee to provide the ethical leadership that says to those bodies that they should own the issue and that they own the recording of their statistics.

Secondly, we would like you to agree with us that getting this right matters and that the recording of rape should be done by sex. Anything else that is recorded about perpetrators is fine. We are not saying nothing else should be recorded, but we are saying that their sex should be clearly recorded and that, when you look at the female offending statistics, what you are seeing is the offending statistics for women.

09:45

Fergus Ewing: Ethical leadership. My understanding is that, at the moment, Police Scotland has the primary responsibility for accurately recording the sex of suspects. What is your view about that? Are you happy with that? Is it your view that you are happy with that but that the police do not carry it out in a way that you regard as displaying that ethical leadership?

Lisa Mackenzie: Well, ultimately it is the police who record the data at the point of arrest and charge, so it clearly falls to them operationally. One point that I make about the Scottish crime recording board is that I hear what it says about being set up for a very specific purpose. As I understand it, there was a set of crime data that it owns, which were de-designated as national statistics in 2014-15 and that had to be rectified. However, although the board is right that it collects statistics on crime, the same statistics will be used for criminal proceedings about the people. Therefore, someone who commits three crimes will appear in the criminal proceedings as a person, if you like, and under the crime data as the offence itself. It seems odd to me that the board cannot choose to have a little bit of oversight about that; it is chaired by the Scottish Government. There is a pointing game going on. However, Police Scotland probably has the primary responsibility.

Fergus Ewing: Are you happy with that, though?

Lisa Mackenzie: I think so but, at the end of the day, it is about ethical leadership, as Lucy Hunter Blackburn said. What we are seeing, not just on this issue but on related issues on sex and gender, is a failure to take leadership. Without going off into a divergent issue, we have schools guidance in Scotland and it is problematic from the

view of lots of women who have been campaigning on the issue. What you get from the Scottish Government is, "Well, it is just non-statutory guidance," but that guidance has been used. There is a kind of naivety about it. Once the guidance bears the imprimatur of the Scottish Government, people quite understandably take it seriously, and schools will adhere to it. We have seen that. We have seen councils say, "We are changing the toilets to gender-neutral toilets, because the guidance suggests that that is a good way forward."

There is a naivety about what it means when a high-profile public body such as Police Scotland or the Scottish Government puts its badge on the norm of collecting data in that way. We had guidance from the chief statistician in September 2021, which basically said that public bodies could stop recording data on sex as a matter of course. We see that as enormously problematic across all sorts of different public policy areas. It is interesting that the one area where the chief statistician said that perhaps it is important to collect data on biological sex is the investigation of crimes, but that seems to have been overlooked by Police Scotland.

Fergus Ewing: So your concern is not so much who is legally responsible for recording the sex of suspects but the fact that there is an abnegation of responsibility on the part of the Scottish Government. Instead of giving very clear instructions, it gives guidance that is vague—perhaps for political considerations.

Lisa Mackenzie: Yes, I think that that is fair.

Fergus Ewing: I am just trying to get to the root of your views and also to what you think should happen, so that we can consider matters in the light of that.

Lisa Mackenzie: If the Scottish Government were to say, "We think that it is imperative that you record the sex of rapists," I assume that Police Scotland would probably do it.

Fergus Ewing: Yes.

Lisa Mackenzie: I hope that it would.

Dr Hunter Blackburn: Perhaps I could add one thing, which is that we notice a sort of domino effect in the system. Once the police do it, the courts do it and then the media do it. The system is linked and the police are important, because they are the first point in the system at which a person might be misrecorded by sex. However, if you take something like the Isla Bryson/Adam Graham case, you will see that he was initially recorded by the police as male because, at the point of being arrested and originally charged with rape, he had not adopted his cross-sex identity. However, later, when he goes into court, the

pronouns change, and even today you could hear Rhona Hotchkiss talking on the BBC to someone and the journalist saying that they are using “she” because that is what the court used.

There is a sort of domino effect, but the police are the first domino, if you like. The system is linked and you have to take an interest in what everybody does, but guidance and leadership from the Scottish Government would simplify it, because of that linkage.

Fergus Ewing: I am obviously not going to mention any particular cases, but there may be instances of a rape suspect self-identifying as a trans woman. Many people—including me, although this is my personal view—might think that that person is frankly at it and is a bad actor. Given that that is happening in—happily—a very few instances, what is your view about how the gender identity of the suspects in those cases should be recorded? It is presumably your view that those are men and should be recorded as male. Is that it?

Dr Hunter Blackburn: Absolutely. That is exactly what we think. We are not saying that there is no reason to record anything else about them. Lisa Mackenzie and I like data and were very supportive when the census added the question about trans identity. We thought that that was interesting, because we hear, and know, little about the population of people who identify as trans.

If the police want to record other details about that person and how they identify, because they might feel that they need to know that in order to handle them better in custody, that is absolutely fine. We are not arguing against having that data recorded as well, as part of the grand scheme of things. A huge amount of discussion in this area is hampered by a lack of data about how many such cases exist. To be able to say how many such cases exist without having to comb through the press would help everyone, no matter where they stand on the argument, because information is helpful.

We are not arguing that you must not also record that if you wish to, but the fundamental point is that that person should not go into the statistics as a woman.

Fergus Ewing: I have listened to what you said and I am grateful for the explanation that you have given. Is your concern not so much about the precise or dry technical rules about how sex should be recorded but about the fact that there have, in recent times, been cases of men carrying out rape and self-identifying as women so that, instead of recognising them as men, the state takes a wishy-washy, mealy-mouthed approach and cannot spit out that those people are, in fact,

men? Is that really your concern? Rather than the issue of the recording of statistics, is this not more about an ethical or political view that you have? We have to consider where we go and what we do with the petition, if anything.

I do not mean in any way to criticise the view that you take, which I probably share, if I have understood the views that you have expressed this morning, but it seems to me that what you really want is for society to take the very clear approach that a male rapist is a male rapist, that rapists are men and that that is that, and that men who—as you see it—pretend to be women are at it. If that is your view, is that not more a matter of politics than of the recording of statistics? Many members of the public would say that it is pretty obvious that all rapists are men and that we all know that already, and that, if they identify as women, that is a matter of self-identification but does not change their biological sex.

Lisa Mackenzie: We have more than one reason for wanting this change. There is a moral duty to the victims of sexual assault and rape, but trust in statistics is also important. The statistics that are gathered generate an understanding of offending patterns and sexual offences are, by and large, perpetrated by men. We looked through the criminal justice proceedings, picked up one instance of female rape in 2018-19 and took that to the Scottish Government, which thought that it looked odd and went to look at newspaper reports. That is not a sustainable way of running a data collection exercise.

If that figure trebles over two years, it will look as if there has been a sudden explosion in female rape and it is not as if that data just sits in the ether and we do not do anything with it. You have been a minister and you know that statistics are the foundation of public policy. Policy making and resource allocation are done on the basis of data, so if we suddenly see what looks like an explosion in female rape or female sexual assault, we might want to divert public resources to deal with that new phenomenon. However, it is not actually a new phenomenon: it is a male offence, committed by males, and that is what we should be dealing with.

The ethical thing is one part of it, but trust in statistics is fundamental. We are already seeing people concerned about misinformation being perpetrated with the advent of social media, but it is important for the public to trust the statistics. If they read a *Daily Mail* headline about a trebling in the incidence of female sexual assaults, can they be sure that that is really happening? Is that the phenomenon that they are really being faced with, or has the data been skewed?

When Police Scotland reviewed the 28 cases that it came across between, I think, 2012 and

2018 of those suspected of or arrested for female rape, the response was, “Well, they were all art and part.” However, that was not what we were asking. What we were asking was: how do you know for sure that those 28 people were biological females? That is what you lose once you change your data collection practice; you can no longer say with certainty that those 28 people are biologically male or biologically female.

Dr Hunter Blackburn: I wonder whether I could just add something about some of the language that you were using. I am very uncomfortable that the response to the Bryson case was to say that Bryson was “at it”. That was the political response. From my point of view, when we talk about this, I would not use words such as “pretending” or whatever. I think that it is just a fact that this is a male person. What that person genuinely believes about themselves is a separate question in this context, and I am not wanting to make that kind of judgment. It is a simple fact that the crime has been committed with a male body by someone whom I would describe as a man, but I am not asking anyone to make a judgment whether, in every individual case, we are going to use a phrase such as “at it”, which I do not think is particularly helpful here. We just need to say, “This is a male person.”

In any such case that might arise, the relationship of the person with the identity that they profess is a completely different question, and it will vary. I want to be careful here: the argument here is not that we should do this, because people are “at it”. It is simply that we should record them correctly by their sex, because they are male.

Fergus Ewing: I guess that the background to that view is the feeling that some individuals might seek to be housed in female prisons. In that sense, the motive for professing female gender is one that most people would regard as bogus. That said, I take the distinction that has been made.

I have just one more question for the witnesses, which is this: what would you like to happen next? You have already said that ethical leadership is what you require from the Government, the police, those who record statistics and so on, but are there any more specific things that you would like to be done in response to your petition?

Dr Hunter Blackburn: It is simply what it says, I suppose. We started this by asking essentially what the petition says: will the Parliament ask the Government to ask the police and the other bodies concerned to do this? It is, I suppose, a fundamental and simple request.

Fergus Ewing: Right, and the Government’s response, which is that it is up to the police, is an abnegation of leadership.

Dr Hunter Blackburn: Yes, absolutely.

Lisa Mackenzie: That is the problem: the perpetual finger pointing and people saying, “It’s not me who’s got the responsibility—it’s them.” I would like to know why Police Scotland believes that it is consistent with its so-called values to hand rapists the power to determine how they are represented in public statistics. That has been the consistent response that the police have given to the media—that this is aligned with their values. I find that quite incredible.

In April 2019, the police were asked by a feminist campaigner, “Why have you changed your recording policy? When did it change, and on what basis?” They said, “Well, it evolved.” Then the assistant chief constable wrote to the Criminal Justice Committee in January 2022 to report that, actually, the reason for changing their practice was in anticipation of the Gender Recognition Act 2014 being reformed later in 2019. That is a very common phenomenon, too: public policy running ahead of law reform, which of course none of us can guarantee will happen or come to fruition. We have seen the same with other public bodies—the sort of casting around for a rationale that Police Scotland has done and then retrofitting and changing it, perhaps when it comes under scrutiny.

I would like to know why the police thinks that this policy is consistent with their so-called values. I find that quite shocking.

Fergus Ewing: And you would like us to find that out.

Lisa Mackenzie: That would be great.

Fergus Ewing: You want us to find out why the values to which the police have referred have resulted in changing the previous practice. To many of us, such matters seem to be fairly straightforward and have always been so—for decades, if not centuries.

10:00

Maurice Golden (North East Scotland) (Con): I am keen to establish whether there is a general issue or a specific issue in relation to the recording of crimes and the related data and databases. It is my understanding that, even though we have a single police force, police officers often record details of a crime in different ways, particularly when it comes down to the granularity, and that there is not even a central database that covers all the recorded data that is universally shared across Scotland. The committee might choose to find out why that is the case, but do you have any insights into that?

Dr Hunter Blackburn: No. Police Scotland would have to give you the answer to that.

Although we do not deny that the same arguments could apply to serious sexual assault and violent crime—all the crimes that women very rarely commit and that men do, so the statistics would be skewed—the reason why the petition focuses on rape is that, if you are charging rape and you take out the art and part people, because of the definition in law of rape, you know something about that person. It is one of the very few crimes that unambiguously requires a sex. In a sense, to be generous, rape is therefore unusual.

However, there are questions about other crimes. That might relate to what you have described about it being more complicated to chase something down if there is inconsistency across systems.

It is a very good question to ask Police Scotland. It comes back to the issue of trust in public statistics. The statistics that the police collect across the board are an incredibly important statistical set, and you, as politicians, will work with that data a great deal, so there should be consistency in data recording by the police. You need to feel secure that what the police are giving you as an account of the world is reliable and trustworthy, and that local variation is within the limits that are absolutely unavoidable.

Maurice Golden: Thanks.

Foysoyl Choudhury (Lothian) (Lab): Do you believe that, instead of the police, there should be a third party involved in recording or determining the sex of the person committing the rape?

Lisa Mackenzie: I do not understand. Do you mean at the point of charge?

Foysoyl Choudhury: I mean at the point of reporting. What I have heard in our discussion is that the petitioners want the person's biological sex and gender identity to be recorded, but if the police are not recording that on the database, should a third party be involved?

Dr Hunter Blackburn: I think that it has to be the police. I go back to what I said to Mr Golden. If the police are charging rape, they must know the sex of the person, because the sex of a rapist is unambiguous. The police cannot charge rape unless they know that the person in question has used an erect penis to rape a person. No third party would be required at that point to add anything. The police have done this and had to know this since rape has been on the statute book. The police should have recording practices that are robust in their own right. As a functional entity, they need to be able to do that.

The Convener: I have a couple of questions on the various submissions that the committee has received and your own. In your final submission, you say that the Police Scotland statement

remains “technically correct”. I want to look behind that. Do you believe that it remains technically correct because that is convenient or because it is technically correct—if you understand my meaning? When you say “technically correct”, do you worry that that is a euphemism for not entirely responding to the issues that you are raising?

Dr Hunter Blackburn: Forgive me, convener, but can you tell me where that is in our submission?

The Convener: That is in the last paragraph.

Dr Hunter Blackburn: Right. Please give us a moment.

The Convener: It says:

“As we have previously argued, while the PS statement remains technically correct (since Bryson declared a trans identity after being charged)”.

Are you familiar with where I am reading from now?

Dr Hunter Blackburn: Yes, absolutely. In 2021, Police Scotland said that there was no such case, which was technically true because, at the point of arrest, Bryson was presenting as a man called Adam Graham. He transitioned—he assumed his new character—between being charged and the trial. Therefore, it is technically correct that the police had never dealt with such a case at that time. It is a case of angels on pinheads. There is the case that I know that you would rather that I did not mention, but let us say that we now have evidence of a person who had lived in their community for many years using a female name and who was known around the community; they were arrested dressed in a manner that showed that they were clearly in that persona at the time and yet the fact that that person was recorded as male was the choice of that individual. Therefore, there is an angels on pinheads quality to Police Scotland maintaining the position that it has taken.

The Convener: Earlier, you referred to the way in which statistics can be manipulated and how a tabloid might suggest that there has been an explosion in a particular area of crime. These statistics, in so far as we have them from any of the bodies, take us up to 2020. Is it your worry that the statistics that might be presented for the period since then might give rise to the type of tabloid journalism to which you are referring? Are you disappointed that there are not more up-to-date statistics that might confirm or not the worry that you have that this evolving practice might be about to have an impact on the way that these things are reported and perceived?

Lisa Mackenzie: [*Inaudible.*]—we cannot and will not know once the data recording practice has been altered. That is what really troubles us. When we went to the Scottish Government to say

that we had spotted one female rape in the 2018-19 criminal proceedings data, its response was, "Oh, yes, that does look strange. We're going to check newspaper reports." That is not a sustainable way to run a data collection exercise. Obviously, we are talking specifically about the crime of rape in this instance but if, for example, Police Scotland has ended up recording a number of sexual assaults as being perpetrated by females, when they were actually perpetrated by males, we will not know that now.

If we contact the Government again, will it scour the newspapers to go back and check whether it has misrecorded something? That is not sustainable. Once you have lost the data and the certainty about the data, you have lost it, so we just will not know. Rape is the most obvious crime, as Lucy Hunter Blackburn said. We came to you because, to us, it is an indisputably male crime. Some women commit sexual assault but the numbers are very small. However, because the numbers are small, the ability to skew the information is great. That would go for serious sexual assault as well. However, the fact is that Police Scotland has changed its practice, and we just do not know that information any more. It is one of those unknown things.

Dr Hunter Blackburn: I will add that there was a case in Stranraer sheriff court in the past week relating to groping and indecent exposure, breach of bail conditions and use of the internet. The person concerned had been convicted in 2008—as a man, just straightforwardly—of past sexual assaults. That person is now using a female name and the press reporting that I saw used a female name and pronouns, but I think that, in court, a female name and pronouns were used. Therefore, we do not know how that case will be recorded. It could well turn up in the sexual offending statistics for the current year as a female case. The only way to find that out later will be to do exactly as Lisa Mackenzie says, which is to comb through the press. As a former senior civil servant, I find that to be an extraordinary proposition from any Government.

The Convener: Thank you. That is very helpful. I see that colleagues do not have any further questions. I thank the witnesses for coming in. Is there anything that you would like to mention that you feel we did not manage to explore in the detail that you might have wished?

Dr Hunter Blackburn: Yes; I made a note. We are grateful for the conversation, and I hope that you will come back to us if there is anything that comes up in your own discussions. We continue to be very pleased to help the committee with this.

I will make a closing comment, convener. You are all men—you will be very aware of that—and you have two women sitting in front of you today,

talking about the issues in the petition, but this is not an experience that we would choose. I really want to make that point. This is not normal. Please do not read into the fact that we are sitting here as we are that we are comfortable doing this. We think that it is the unwillingness of Police Scotland, in particular, and of the Scottish Government to give leadership here that has made this policy and this petition such a drawn-out process. That is a problem.

Neither you nor we are being asked to engage in a normal political discussion. It should not take two and a half years to bottom out the proposition that rapists should be recorded as male. I will finish there, if I may.

The Convener: I understand your point, and I understand the point that you make about the committee. I have a long experience with this committee. In 2013, women came forward on the transvaginal mesh scandal. It must have been an incredibly difficult presentation to make at that time, to identify what was not an area of public health policy and to discuss it in detail. I hope that the Parliament—certainly, those of us men who were on the panel at the time—understood and pursued that case very actively on behalf of those women. I hope, and I believe, that we are capable of doing that but, from that experience, I have long understood that some of those issues are very difficult to present and discuss.

I thank you both very much for your evidence this morning. We will have a short suspension to allow us to reset.

10:12

Meeting suspended.

10:13

On resuming—

Free Rail Travel (Disabled People) (PE1928)

The Convener: Our second continued petition this morning is PE1928, which is on providing free rail travel for disabled people who meet the qualifications for free bus travel. The petition was lodged by David Gallant and was last considered by us on 3 May, when we agreed to write to the Scottish Government. I am pleased to note that the Scottish Government has responded to confirm that the remit of the fair fares review includes consideration of the scope and extent of existing concessionary travel schemes, including the provision for disabled people and their companions travelling by rail.

Colleagues may remember the issue in relation to companions who may have been getting on at

one stop where there was a concessionary scheme and getting off at another where there was not. The response also indicates that the review will report by the end of this year, with the expectation that a package of measures will be considered for implementation from 2024-25 onwards.

We have also received a submission from the petitioner, drawing our attention to provisions of the Equality Act 2010 and suggesting that the legislation be used to compel the Scottish Government to ensure that disabled people have equitable access to public transport. Do members have any comments or suggestions?

David Torrance (Kirkcaldy) (SNP): I would like to close the petition under rule 15.7 of standing orders on the basis that the Scottish Government has confirmed that the remit of a fair fares review includes consideration of concessionary travel schemes for disabled people and their companions travelling by rail. In closing the petition, I remind the petitioner that, if the fares review does not meet what they are trying to do, they could bring the petition back in 12 months.

The Convener: Are colleagues content with that approach?

Fergus Ewing: I am content with that approach. When closing the petition, however, could we draw the Government's attention to the information that the petitioner provided in the supplementary submission on 13 November, to which you alluded, convener? The petitioner made a strong point that should be made to the Scottish Government specifically so that it can be considered in the consultation. People with a disability cannot go by bus for long distances because, according to the petitioner at least, there are no adequate toilet facilities on various well-known bus company vehicles, which are referred to in the petitioner's response. The point is that they cannot access public transport because provision is based on people without a disability. Therefore, because trains do not have disabled-friendly toilets, the provision of what they ask for would enable them to travel. At the moment, they cannot travel at all.

I entirely agree that we cannot take the matter much further given that there is a consultation, so that would be a way to deal with it. It is an extremely strong point and a very obvious form of discrimination against people with a disability.

The Convener: I am happy that, in closing the petition, we write to the Scottish Government, which is undertaking the review, to make that point to it. Are we agreed?

Members indicated agreement.

Garage to Home Developments (Evaluation) (PE1985)

The Convener: The next petition is PE1985, which is on evaluating garage to home developments. The petition was lodged by Darren Loftus and calls on the Scottish Parliament to urge the Scottish Government to commission an independent evaluation and provide national guidance on garage to home developments.

We last considered the petition at our meeting on 23 February, when we agreed to write to the Scottish Government and the Convention of Scottish Local Authorities. However, before we move forward, we received a request from the petitioner yesterday asking us to defer consideration of the petition until a later date. We are still trying to establish the underpinning of that, but in light of that request, are colleagues content to defer consideration of the petition?

Members indicated agreement.

Defibrillators (Public Spaces and Workplaces) (PE1989)

The Convener: The next petition is PE1989, which is on increasing the number of defibrillators that are in public spaces and workplaces. The petition was lodged by Mary Montague, who I should acknowledge has subsequently become the provost of my local authority in East Renfrewshire.

The petition calls on the Scottish Parliament to urge the Scottish Government to support the provision of defibrillators in public spaces and workplaces. We last considered the petition on 8 March, when we agreed to write to the Scottish Government, the British Heart Foundation and the Order of St John. The petitioner highlights a recent UK-wide survey on the factors affecting public access to defibrillators, which found a strong desire for public funding to support placement of PADs, as there is currently a reliance on communities, charities or local organisations.

The petitioner has suggested that the Scottish Government makes representations to the UK Government to appropriately update health and safety at work legislation, with the inclusion of reasonable defibrillator provision in first aid requirements. We received information on survival rates—there is a 60 per cent greater chance of survival if there is access to a defibrillator, and that is a very meaningful difference.

The Scottish Government's response states that the Scottish out-of-hospital cardiac arrest report 2022-23 was due for publication in October. However, the clerks have become aware that publication of the report has now been delayed until later in the year, although there is not much of

the year for it to be delayed to; I presume that it must therefore be imminent.

St John Scotland's written submission highlights growing financial concerns among community groups in relation to purchasing batteries and meeting rising energy costs. It also shares challenges in engaging with some local authorities whose response is a bit uneven, stating that some refuse to provide the relevant planning permission and that they will not enter into a dialogue to address the issues.

The British Heart Foundation Scotland has highlighted Government funding in Wales and England to assist with the provision of defibrillators in areas of need, and notes that it would support a similar programme in Scotland.

Mary Montague has brought a very important health issue to the committee. We received interesting evidence from the various organisations to whom we have written. Do members have any comments or suggestions?

David Torrance: I wonder whether the committee would consider writing to the Scottish Government to highlight the issues that St John Scotland has identified in communicating with some local authorities. We could ask the Government whether it is aware of any local authorities that have refused to engage with charities and community groups or that have refused to provide planning permission for public access defibrillator installations and, if so, why that has occurred, and how it intends to work with local authorities to improve their engagement with charities and community groups that seek to install PADs.

The committee could also ask the Government whether it has considered providing a specific fund for the provision of defibrillators in areas of greatest need in Scotland that would be similar to the funds that exist in England and Wales, and whether it will consider making representations to the UK Government to update the health and safety at work legislation to include defibrillator provision as part of the minimum first aid requirements.

Fergus Ewing: I wonder whether we could add to the content of the letter to the Government as described by Mr Torrance a request that the Government comment specifically on the statistic to which the convener alluded, which shows that access to a defibrillator increases substantially a person's chances of survival. In addition, I might have missed this in the papers—there is a lot of data in the British Heart Foundation's submission—but I wonder whether it is possible to identify how many people's lives have been saved as a result of the increased protect and survive capability that defibrillators provide. Rather than

having a theoretical statistical percentage, it would be very interesting to find out how many people's lives have been saved as a result of defibrillators. I think that that would be useful data to access—if, of course, the British Heart Foundation has it. We can ascertain whether it does by asking it that question.

The Convener: Depending on the responses that we receive, I suggest to colleagues that the issue might be one that we could put on our shortlist of topics to debate in the chamber. I know that we are looking for debating time for two shorter debates that could be combined, but the issue of defibrillator provision seems to be one of considerable importance.

Drink Spiking (Support for Victims) (PE1995)

The Convener: Our next continued petition is PE1995, on improved support for victims of spiking, which was lodged by Catherine Anne McKay. The petition calls on the Scottish Parliament to urge the Scottish Government to develop a multi-agency approach to investigating spiking incidents to ensure that victims are given access to appropriate testing and that incidents are investigated robustly.

We are joined for our consideration of the petition by our parliamentary colleague Clare Adamson, who joins us online—indeed, she has been faithfully with us throughout all our proceedings so far. Good morning, Clare. I will come back to you in a second.

We last considered the petition on 22 March, when we agreed to write to the Scottish Government and Police Scotland. Police Scotland has confirmed that victims who report a suspected spiking incident will always be asked to provide a urine sample. However, a sample will not be collected if such a report is made outwith the 14-day forensic window or the victim does not wish to provide a sample. Senior investigating officers have been appointed within each territorial police division to act as points of contact for all spiking-related matters and investigations.

The Scottish Government's response highlights operation precept, which is the name for a national response to spiking that includes guidance for officers and staff. It states that Police Scotland also has a spiking information toolkit, which includes guidance and information for the licensed trade. The response notes that there is no single test that can determine whether a person has been spiked, and that it is not possible to determine whether drugs found as part of any test were taken by the individual or given to them against their knowledge or will. It concludes by

noting that a further round-table meeting is due to take place with operational partners.

Lastly, SPICe—the Scottish Parliament's independent information centre—has produced a summary of the round-table discussion on the topic of drink and needle spiking that was held by the Education, Children and Young People Committee in January 2022. That summary has been included in colleagues' meeting pack.

Before I invite committee members to comment on further actions that we might take in the light of the evidence that we have received, I offer Clare Adamson the opportunity to make some comments.

Clare Adamson (Motherwell and Wishaw) (SNP): I thank the committee for the opportunity to speak on this important subject. The petition has my full support. Ms McKay previously contacted my office, and I raised her case with Police Scotland. She has my admiration for the way that she has approached the issue after such a harrowing incident for her family.

We know that there is a correlation between spiking and sexual offences, and we know the systemic barriers that people face in reporting such crimes. Those are wider cultural issues, which are typically rooted in the tacit societal acceptance of both violence and misogyny. The petition does not speak to those harmful cultural norms, but it is those attitudes that drive the inequity that have made such incidents troublingly commonplace.

As policy makers, we must recognise the areas in which we can make an immediate and tangible difference. Other barriers will still exist to reporting those incidents, but confidence in those incidents being investigated should not be one of them. Victims should feel confident that their complaints will be treated with the utmost seriousness. They need to know that their voices will be heard and that their experiences will be compassionately handled and rigorously investigated. That is not the current position, as demonstrated by the experience of the McKay family. Too many people are hesitant to bring cases forward; our Parliament has an opportunity to change that narrative.

In cases of suspected spiking, I share the belief that appropriate testing should be standard, because we know that the hours following the incident are critical. Further, victims should be directed to holistic emotional support. People in such situations will always feel scared and isolated, and supporting their mental wellbeing is crucial. Promoting that support more widely will encourage more people to relay their experiences so that the crimes can be investigated and perpetrators will feel the full legal scrutiny for their actions. No one who commits those heinous

crimes should feel safe and their actions should not go unpunished. No one who suffers because of those crimes should feel that their voice is dismissed.

I thank the committee once again for allowing me to speak and convey my appreciation for Catherine Anne McKay and for her dedicated advocacy on behalf of her family. Their work will make no difference to their experience and the outcome of it, but it may ensure that no other victim or family are left feeling that incredible injustice.

The Convener: Thank you very much for that testimony on behalf of your constituent and in support of the petition; it is much appreciated, Ms Adamson.

Colleagues, we have had an opportunity to consider various responses to the petition. Do you have any comments or suggestions as to how we might proceed?

Fergus Ewing: I thought that the responses were comprehensive, particularly that from the police. It is obvious that the police take the matter very seriously. I will not expand on it, but I thought that they offered a comprehensive reply, for which I am grateful. Nonetheless, Clare Adamson's point about testing being standard—which the police say is the approach that they take—is the correct principal approach. Therefore, there are a few questions on which I would like to establish the police's position in view of the responses that we have had.

First, the committee should write to the police to ask whether it keeps a record of instances in which a urine test was conducted, when it was refused by the victim or when it was not practically possible. The police refer to instances in which a test was not practically possible or in which it was refused. Secondly, we should ask whether the police can compare those records, if available, with the number of reported incidents of suspected spiking. Thirdly, how does it ensure that the operation precept guidance is understood and followed by police officers across Scotland, so that there is a uniform, routine approach and that testing is standard?

We could also write to the Scottish Government to ask for an update on its round-table meeting with operational partners, as noted in its submission of 1 June. In addition, we could ask how the Government is engaging with pub owners as part of its work to tackle spiking and broader safeguarding regulations for the night-time industry. Inconsistencies in approach by individual pubs due to a lack of specific regulation was raised during the committee's round-table session. Lastly, has the Scottish Government given consideration to making spiking a specific

offence? That suggestion was also made during the committee's round-table discussion.

The Convener: All those suggestions are sensible and arise out of the evidence that we have received. Colleagues, do you have anything else that you wish to suggest? Are we happy to proceed on the basis of Mr Ewing's recommendations?

Members indicated agreement.

The Convener: We will keep the petition open. I thank Catherine Anne McKay and Clare Adamson for their work. We will take forward the suggestions that have been made by the committee.

Universities (Accountability) (PE2000)

10:30

The Convener: Our next petition is PE2000. I do not know whether that is statistically significant—two thousand what, I am not entirely sure. It was lodged by Dr Marie Oldfield and calls on 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 creating a new body that is similar to the Office of the Independent Adjudicator for Higher Education, which could enable students to access redress without the need for court action.

We previously considered the petition on 19 April, at which point we agreed to seek the views of Universities Scotland and the National Union of Students Scotland. Universities Scotland has responded, stating its view that

"the SPSO offers an effective route for complaints-handling"

where cases have not been resolved at an institution level, and that it sees

"no basis for an expanded remit or new body"

to be established.

The response also notes new guidance from the Competition and Markets Authority, published earlier this year, which provides advice on how consumer protection law applies to the UK higher education sector and what enforcement action is available when higher education providers do not comply with the law.

The response also refers to the Digital Markets, Competition and Consumers Bill that is currently being considered by the UK Parliament and is expected to significantly strengthen the Competition and Markets Authority's enforcement powers.

NUS Scotland's response states the organisation's support for

"a review into the complaints processes for higher education institutions",

and notes its view that

"extending the remit of the Scottish Public Services Ombudsman"

would be an

"effective way of"

empowering students to hold universities to account, although we note that the SPSO has no wish to take on that remit.

We also received a response from the petitioner expressing concerns about the SPSO's remit and approach to complaints handling, and the impact on students of navigating complaints processes and having to seek redress through civil courts.

From NUS Scotland and from the petitioner, there is a desire to go further, but from the SPSO and Universities Scotland, there is less of a desire to do so. Do colleagues have any comments or observations in view of the responses that have been received?

David Torrance: Considering the responses that the committee has received, I wonder whether the committee would consider closing the petition under rule 15.7 of standing orders, on the basis that redress and enforcement aspects of consumer protection remain reserved to the UK Parliament, and provisions in the Digital Markets, Competition and Consumers Bill are expected to strengthen the enforcement powers of the Competition and Markets Authority. The Scottish Government has no intention, at this time, to seek to make extended powers available to the SPSO or to create a new body in this area.

The Convener: That latter point in particular, on which the Scottish Government has given a clear direction, means that there is limited scope for the committee to advance the aims of the petition. Do colleagues therefore support Mr Torrance's recommendations?

Members indicated agreement.

The Convener: We thank the petitioner for lodging the petition. We respect the fact that important issues have been raised but, given the response from the Scottish Government, which has no inclination to undertake work to advance the aim of the petition, I feel that there is little scope for the committee to proceed. We will therefore close the petition.

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—Guidance for Schools in Scotland” resource from Scottish schools, and to await the outcome of the Cass review before developing a new resource.

Again, we previously considered the petition on 19 April and we agreed to seek the views of a variety of stakeholders. We have received responses from LGBT Youth Scotland and Scottish Trans, both of which oppose the action for which the petition calls, and which highlight that the development of the guidance took place with input from organisations across the education, women’s and sports sectors as well as the LGBT+ sector.

The National Gender Identity Clinical Network for Scotland responded by noting that its remit does not include

“the provision of materials and guidance documents to educational establishments”.

It states that it

“is supportive of any guidance which aims to help school staff to provide transgender young people with the best possible educational experiences.”

The response also notes that the Cass review that was commissioned by NHS England to make recommendations about national health services that are provided to children and young people who are questioning their gender identity

“has no significance to the provision of educational materials to schools.”

We have also received two submissions from the Equality and Human Rights Commission, the second of which provides a brief update on its review of the technical guidance for schools in Scotland. It is understood that amendments have been made

“to ensure its references to the protected characteristics of sex and gender reassignment reflect developments in this complex area of law and policy.”

The response from COSLA notes that, although it was not directly involved in the development of the guidance referred to in the petition and does not have an agreed position on the guidance, it remains committed to working with partners to take forward the recommendations that are included in the LGBTI-inclusive education working group’s 2018 report.

We have also received a response from the petitioner that draws our attention to the Equality and Human Rights Commission’s updated technical guidance for schools and shares information on a national health service England resource that has been designed to help educators support gender-distressed children. A

request to provide the committee with written evidence has also been received from For Women Scotland.

There has been quite an array of responses, in point of fact, so, having had the opportunity to consider those, do members have any comments or suggestions for action?

David Torrance: Considering the evidence before us, I wonder whether we could close the petition, under rule 15.7 of standing orders, on the basis that the Scottish Government has clear guidance to support transgender young people in schools as needed. Withdrawing the existence guidance would be detrimental to the wellbeing of transgender young people and would leave teachers and schools without national guidance to inform them and support their decisions. The case review of NHS services provided in England has no significance in the provision of educational materials for schools in Scotland.

The Convener: Thank you. As there are no other comments, suggestions or variations of view, do member wish to pursue the proposal from Mr Torrance?

Members indicated agreement.

The Convener: There is quite a lot of information. We will summarise much of that again in our response to the petitioner. I thank them for lodging the petition. In view of the work that is currently being done, the committee has decided that we will close the petition.

New Petitions

Parking Charges (Community Healthcare Staff) (PE2041)

10:37

The Convener: Item 3 is consideration of new petitions. As I always say, in case there are petitioners who might be watching our proceedings this morning, when a petition is lodged we initially take a view from the Scottish Government and from SPICe—the Scottish Parliament information centre. We do that because we would propose doing so at first consideration of the petition, so not having their views would only cause a delay in our consideration. It is important that we get to the meat of the argument that the petitioner is trying to advance.

The first of our new petitions is PE2041, on exempting community healthcare staff from parking charges. The petition was lodged by John Ronald. It calls on the Scottish Parliament to urge the Scottish Government to encourage local authorities to exempt staff working at community healthcare facilities, and who do not have access to free on-site staff parking, from on-street parking charges, to allow them to care for vulnerable and sick people in our country without it costing them thousands of pounds per year.

Mr Ronald told us that he works alongside healthcare staff who are based in community health buildings that are surrounded by parking meters, which have seen an increase in charges to around £6 per hour. Mr Ronald is concerned about the impact that that will have on community-based staff who require use of a car throughout their shifts, particularly in the context of the cost of living crisis.

The Minister for Local Government, Empowerment and Planning responded to the petition, noting that, as local authorities are responsible for setting parking charges on property that they own and for determining who is exempt from such charges, it is not a matter that the Scottish Government can intervene in. However, I argue that it is an issue on which the Scottish Government might have an opinion.

The briefing that we have received from SPICe also notes the role of local authorities in setting parking charges, as well as highlighting measures for NHS staff and volunteers to claim reimbursement for parking charges and the action that the Scottish Government has taken to abolish car parking at NHS hospitals in Scotland—which is of no use at all to the people whom we are considering here. Do colleagues have any

comments or suggestions? I do not feel that, so far, we have had anything that helps that very important body of public service workers at all.

Fergus Ewing: I was astonished by the replies, quite frankly. The starting point for us in our work is to look at what petitioners say and what they complain about. This petitioner says that the parking charges that he and his cohort of community healthcare workers must pay—it is not quite clear whether he is an employee or a volunteer, but maybe I have not read the information properly—have increased to £6 per hour. That means that staff pay £48 for working an eight-hour shift, which, on a five-day week, comes to £11,520 year.

I would have thought that the health minister and NHS Scotland would have commented directly on what the petitioner said, but they have not. Why not? It is absolutely baffling and completely unacceptable. The idea that the Scottish Government can pass the buck to local authorities is completely at odds with what happened in September 2008—the information that I have suggests that, at that time, the Scottish Government announced that car parking charges should be abolished at NHS hospitals.

That directly contradicts what the minister is now saying. I find it absolutely baffling that we would be asked to regard this nonsense as in any way acceptable. We have to strongly rebut the response and write to COSLA and the health minister and ask them to look again. We should ask whether it is the case that groups of health workers have to pay these extortionate charges and, if so, how on earth they can be expected to carry on in their jobs. If that is true, we will be driving people out of that kind of work. COSLA and the minister might question that evidence, which is fine, but surely the petitioner is entitled to a direct response.

The Convener: Yes. Curiously, I see that our colleague Jackie Baillie is in the public gallery, as she is joining us for a later petition. Jackie and I worked together on hospital car parking charges in an earlier parliamentary session. We wrote to the then health secretary—one Nicola Sturgeon—and managed, on a joint Opposition basis, to have hospital car parking charges in NHS-owned car parks abolished. You make the point very effectively, Mr Ewing, that the Government has previously intervened on a matter that it regarded as being in the ownership of the NHS.

The key thing for me is exactly the point that you make, which is that the Scottish Government says that it is not a matter for the Scottish Government. It may not be technically a matter for the Scottish Government, but the Government can have an opinion on it and can show some sort of moral leadership or lead in relation to our evidencing the

petitioner's claim. It seems to me that we are talking about individuals who are community based and who need to use a car to get to the patients or people whom they are assisting. If they are having to pay significant car parking charges, whether that is back at headquarters or when they are with the patient, that is a disincentive to their continuing in the form of employment that they are in. Their loss would be hugely detrimental to that valuable service in the community.

I wonder whether we could also write to COSLA, the Royal College of Nursing, Unison, Unite and the Allied Health Professions Federation to see whether we can get further evidence on the statements that the petitioner has made to understand whether it is a widespread experience. I certainly think that we should go back to the Scottish Government and say, "We'd like to understand what your view is on the petition and not just to hear you argue that it's not a matter for you." Clearly, it would be a matter for ministers if we suddenly lost all the staff who are providing the service.

Fergus Ewing: It was of concern in the good old days, convener.

The Convener: Well, I am not going to lead the committee in a chorus of "Down at the Old Bull and Bush", Mr Ewing.

Are there any other comments? Are we content to proceed on that basis?

Members *indicated agreement.*

The Convener: I thank the petitioner very much. As he will have heard, we will be taking forward the aims of the petition.

Gender Theory in Schools (PE2043)

10:45

The Convener: PE2043, which has been lodged by Philpa Jackson, is on changing the way in which gender theory is presented in schools. As you will recall, we considered a similar—though not exactly the same—petition just a moment ago. The petition has been lodged to urge the Scottish Parliament to urge the Scottish Government to redefine the relationship, sexual health and parenthood—or RSHP—lessons pertaining to transgender and not present the information as fact.

The SPICe briefing note that has been prepared states that Scotland does not have a statutory curriculum, as we know. It also notes that the Scottish Government was consulting on draft statutory guidance on the delivery of relationship, sexual health and parenthood education to replace the guidance currently in place.

The Scottish Government's response states that it has accepted the recommendations made by the LGBTI inclusive education working group. Of the teaching resources available for RSHP, one resource contains a lesson on being transgender and is intended for primary 5 to primary 7. The resource asks young people to think about what transgender means and aims to challenge the stereotypes and prejudices that can lead to transphobic bullying. The response also notes that the content of the RSHP resource was informed by more than 1,000 primary and secondary teachers and was piloted in 38 schools.

The petitioner's written submission expresses the view that children are being taught an ideology that she is deeply concerned about, as she finds the current teaching to be age inappropriate and extremely graphic. She believes that some of the people involved in creating the RSHP resource are very biased, and she states that adults should not be coercing children to think that they can be the opposite sex.

Those are the comments that we have received from SPICe and the petitioner. Do members wish to suggest any options for action that we might take forward?

David Torrance: I wonder whether the committee will consider closing the petition under rule 15.7 of standing orders, on the basis that the Scottish Government is clear that guidance to support transgender young people in schools is needed and that it has accepted the LGBTI inclusive education working group's recommendations on that approach to inclusive education.

Fergus Ewing: I do not oppose that proposal, as it is very clear that the Scottish Government is not going to change its practice. However, I want to record my full support for the petitioner's views in every respect.

The Convener: Given the Scottish Government's very clear guidance—and noting Mr Ewing's comments, which I expect might be more widely shared—are colleagues content to close the petition, even though it is a new one, given the direction that we have received?

Members *indicated agreement.*

The Convener: I thank the petitioner for lodging the petition. As I hope that you will understand, the response from the Scottish Government means that there is little scope for the committee to pursue the petition further. On that basis, we will close it.

Stillborn Babies (Birth Certificates) (PE2046)

The Convener: PE2046, which has been lodged by Debbie-Ann McMillan, calls on the Scottish Parliament to urge the Scottish Government to enable a birth certificate to be issued in respect of any baby stillborn after 20 weeks of pregnancy. I note that Clare Haughey, who I imagine is the MSP for the petitioner concerned, is in the gallery to observe the proceedings.

A stillbirth is defined in legislation as a child who had issued forth from its mother after the 24th week of pregnancy and which did not breathe or show any other sign of life, and that definition reflects the view that a baby born at 24 weeks or over is capable of surviving. The Scottish Government's submission indicates that a change to 20 weeks would impact on that and other legislation, including the limit of 24 weeks for most terminations of pregnancy. The Scottish Government therefore has no plans currently to introduce primary legislation to change the 24-week threshold to 20 weeks.

The Scottish Government's response to the petition outlines the current approach to registering a stillbirth, with the Registration of Births, Deaths and Marriages (Scotland) Act 1965 making provision for both a birth register and a separate stillbirth register. It also notes that recording stillbirths as births could have wider implications about the legal personality of an unborn child.

The Government has stated that it does not plan to make changes to the way in which stillbirths are registered. It notes that, as part of the recent launch of a memorial book for those who have experienced a pregnancy or baby loss prior to 24 weeks, applicants will be given a commemorative certificate, which is intended to give recognition and comfort to those who want to record their loss.

I imagine that most members of the committee will know people who have experienced the matters addressed in the petition, but I think that there has been very clear direction from the Government in relation to potential consequential impacts, were the change to be made via primary legislation.

Do members have any suggestions or comments?

David Torrance: In light of the evidence that the Government has given to the committee on the impact of the legislation, would the committee consider closing the petition under rule 15.7 of the standing orders, on the basis that the Scottish Government has no current plans to bring forward primary legislation to change the 24-week

threshold for registering a stillbirth to 20 weeks, and it does not plan to make any changes to the requirement for separate registers of stillbirths and births?

The Convener: I think that the Government's argument in relation to the termination of a pregnancy at 24 weeks would have to be the primary source of any debate from which a consequential action would arise, were any change such as the one that the petition seeks to establish to be made at some point. However, I understand the Government's concern that moving on that area first could have consequential impacts on the legislation that might not be intended by the petitioner. For those reasons, I agree that the proposal to close the petition is the correct one. Are colleagues content with that proposal?

Members indicated agreement.

FAST Stroke Awareness Campaign (PE2048)

The Convener: Our penultimate petition this morning is PE2048, on reviewing the FAST—face, arms, speech, time—stroke awareness campaign. The petition, which was lodged by James Anthony Bundy, calls on the Scottish Parliament to urge the Scottish Government to increase awareness of the symptoms of stroke by reviewing its promotion of the FAST stroke campaign and ensuring that awareness campaigns include all the symptoms of a potential stroke.

I should say that Mr Bundy is known to members of the Scottish Conservative Party as someone who has worked in our corridor and whose father died because of a stroke. I gather that his mother is with us in the room as we consider the petition.

We are also joined by our MSP colleagues Alexander Stewart and Jackie Baillie for consideration of the petition. Mr Stewart is back for his first visit to us since he withdrew his patronage of our committee, and Jackie Baillie is, of course, a very familiar and regular attendee and campaigner on behalf of constituents who have petitions before us. I should also note that we have received a written submission from Sandesh Gulhane MSP in support of the petition.

James Anthony Bundy lodged the petition after losing his father to a stroke that went undiagnosed, as his symptoms did not fall within the parameters of the FAST assessment. The family are now raising awareness of all the symptoms of stroke, which can also include an inability to stand, cold sweats, vision problems, nausea and vomiting.

The SPICe briefing that we have received refers to a 2021 systematic review of evidence that noted that the less commonly used BE FAST—balance, eyes, face, arms, speech, time—test identified more ischaemic strokes than the FAST test and that that test may play an important role in the diagnosis of strokes.

In responding to the petition, the Minister for Public Health and Women's Health noted that the Scottish Government published its refreshed stroke improvement plan in June and that, in priority 2 of that plan, the Scottish Government has committed to establishing the current degree of public understanding of the symptoms of stroke and whether certain at-risk groups require different messaging.

We have also received a submission from the petitioner, which provides further detail of his family's experience and the difference that the use of the BE FAST test might have made. In doing so, he calls for an immediate and urgent review of the existing stroke awareness campaign to help to ensure that every individual who has experienced a stroke receives the timely care that they deserve.

The petition is an important one. Before we as a committee consider it further, would our two parliamentary colleagues wish to comment on it?

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning. It is a pleasure to be back among you but, for the first time, on the other side of the table. In the previous parliamentary session, I was a co-convenor of the cross-party group on heart disease and stroke.

I would like to speak in support of James Bundy's petition on the review of the FAST stroke awareness campaign. I commend James and his family for the fantastic work that they have done to date in bringing this petition to the Parliament and highlighting where we are.

The petition calls on the Scottish Parliament

"to urge the Scottish Government to increase awareness of the symptoms of stroke by reviewing its promotion of the FAST stroke campaign, and ensuring that awareness campaigns include all the symptoms of a potential stroke".

There were 11,055 reported strokes in Scotland in 2022, which is an increase on 2021. The latest data from the year ending 31 March 2022 reported 3,836 deaths in which cerebrovascular disease, including stroke, was the underlying cause. The current test that is used to assess patients who are suspected of having suffered a stroke is, as we have heard, the FAST test. Although that test can identify most strokes, patients can also present with other less common symptoms. The crux of the petition is those less common symptoms that can occur in some individuals and which can, unfortunately, mean misdiagnosis or

delays in treatment. That was very much the case for Mr Tony Bundy, who died at the age of 53.

As you said, convener, in 2021, a systematic review of evidence found that the FAST test accurately detected 69 to 90 per cent of strokes but that, crucially, the test missed up to 40 per cent of posterior circulation strokes, such as the ischaemic stroke that Mr Bundy suffered.

That issue has also been identified by the national advisory committee for stroke, which stated the importance of education for health professionals, including in circumstances where there is a negative FAST test. That is what we are talking about here: education is required for the professionals who deal with these situations.

I firmly endorse the calls from James Bundy and his family for a review of the FAST test, an evidence session with the Health, Social Care and Sport Committee and a debate in the chamber in the future. That would help the family to see how the process is moving forward, because it is clear that, in this circumstance, the test was not fit to identify a stroke. It is important that we address that for the future.

I commend and congratulate the Bundy family on the petition following their terrible loss. They wish to support others in that situation so that this will not happen to other families. I support the petition and I am delighted to be here.

Jackie Baillie (Dumbarton) (Lab): Convener, you and Mr Stewart have covered most of the detail of what I was going to say, but I will emphasise a couple of points. We would all acknowledge that FAST is a very good awareness programme for stroke, but it could be even better, and that is the essence of the petition. I have to say that the petition is simply common sense, and I am not sure why the Scottish Government is not doing this.

We heard why James Bundy brought the petition to us, and it is a matter of regret that his father died in the way that he did. As we have heard, 40 per cent of ischaemic strokes are simply not captured, and symptoms such as vomiting, blurred vision, confusion and lack of balance should be included in an extended FAST awareness campaign. Convener, you referred to BE FAST, with BE covering balance and eyes.

Therefore, I ask the committee to urge the Scottish Government to conduct a wider review of the FAST approach. We recognise the good work of the FAST campaign but, if we are missing up to 40 per cent of ischaemic strokes, surely the Government should be open to changing the campaign to include more symptoms.

The minister's response misunderstands that point, but I ask the committee to encourage her to

build on the solid foundations of FAST but extend it to include more symptoms so that we can save more lives. I am sure that everybody would sign up to that objective.

11:00

The Convener: Thank you.

The petition is important, and I applaud James Anthony Bundy and his family for the work that they have done in lodging it. As Jackie Baillie was, I was struck by the fact that the taking and promoting of the fairly straightforward action that is proposed could make a material difference. I think that we will certainly want to go back to the minister, but I wonder whether members have suggestions about action that we might take in the interim period.

David Torrance: I wonder whether the committee would consider writing to the Stroke Association and Chest Heart & Stroke Scotland to seek their views on the action that the petition calls for. The committee could also write to the Scottish Government to seek clarification on what consideration has been given to using the BE FAST model to help to raise awareness of the symptoms of strokes.

The Convener: I would very much like us to pursue that with the minister. In many respects, I would like to think that we could embrace the language of Jackie Baillie, in that what is being called for seems to be common sense. If the Government has considered adopting the BE FAST model and has chosen not to, I would like to know what reasons it had for coming to that conclusion, because I think that that would further assist us in considering how we might pursue the issues raised in the petition.

I thank James Anthony Bundy for lodging his important petition. We will keep the petition open and will return to our consideration of it at a subsequent date once we have received the information that we have requested. I thank our parliamentary colleagues for joining us.

Migrant Accommodation (Buffer Zones) (PE2049)

The Convener: Our final petition for consideration this morning is PE2049, on the introduction of buffer zones outside migrant accommodation, which has been lodged by Gilliane Petrie. The petition calls on the Scottish Parliament to urge the Scottish Government to introduce buffer zones outside migrant accommodation to prevent anti-immigrant groups from gathering in those spaces and to help to protect occupants, including asylum seekers and refugees, from harassment and intimidation.

The petition has been prompted by concerns about demonstrations taking place outside hotels that are being used to temporarily house refugees and asylum seekers. The petitioner has provided examples of demonstrations that have targeted accommodation in Erskine and Elgin.

In her response to the petition, the Minister for Equalities, Migration and Refugees highlights the Scottish Government's previous engagement with the petitioner and the need to establish a clear definition of migrant accommodation. She also notes that consideration would have to be given to the purpose, risks and benefits of creating buffer zones. Given the complexity of those issues, which I imagine are considerable, the minister has asked officials to undertake an initial scoping of the potential feasibility of the petitioner's ask.

The minister also notes the existing powers that are available to Police Scotland to deal with any serious disorder arising from public assemblies, and she encourages anyone who has experienced or witnessed any form of harassment or hate crime to report it to the police.

Do members have any comments or suggestions?

David Torrance: I wonder whether the committee would consider writing to the Scottish Refugee Council, JustRight Scotland, COSLA, Police Scotland and the Mears Group to draw their attention to the Scottish Government's initial view, and to seek their views on the action that is called for in the petition.

The Convener: Are members content for us to do so?

Members indicated agreement.

The Convener: Thank you very much. That concludes the public part of our meeting. Our next meeting will take place on Wednesday 20 December. We now move into private session to consider items 4 and 5, as we agreed to do earlier.

11:03

Meeting continued in private until 11:11.

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

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