



OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 26 June 2024

Session 6



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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE
12th Meeting 2024, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Foyso Choudhury (Lothian) (Lab)

*Fergus Ewing (Inverness and Nairn) (SNP)

*Maurice Golden (North East Scotland) (Con)

*attended

CLERK TO THE COMMITTEE

Chandola Jyoti

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 26 June 2024

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Jackson Carlaw): Good morning and welcome to the 12th meeting in 2024 of the Citizen Participation and Public Petitions Committee. First, we have our customary item inviting colleagues to agree to take an agenda item in private. Are members content to do that for agenda item 4, under which we will consider our approach to the draft report of our inquiry into the A9 dualling project?

Members indicated agreement.

Continued Petitions

Wind Farms (Community Shared Ownership) (PE1885)

09:30

The Convener: PE1885, which was lodged by Karen Murphy, calls on the Scottish Parliament to urge the Scottish Government to make the offering of community shared ownership a mandatory requirement of all planning proposals for wind farm developments. We last considered the petition on 25 October, when we agreed to clarify what power the Scottish Government might have in relation to mandating CSO through the devolved power under the Electricity Act 1989.

The then Minister for Energy and Environment confirmed that, in the Scottish Government's view, any legislation relating to how consents for electricity generation stations are granted would relate to a reserved matter, which puts the issue beyond the legislative competence of the Scottish Parliament. Her submission highlights the onshore wind sector deal, which is described as

"a collaborative commitment to develop practical approaches to support and encourage CSO models"

aiming

"to assist developers, funders, local government and communities to engage in these opportunities".

A framework is due for publication by the end of this year.

In response to the minister, the petitioner's submission reiterates her view that industry will ignore the Scottish Government's plans unless CSO is made mandatory. She reiterates her main call, which is for CSO to be made mandatory through use of devolved land and tax powers.

The committee also asked for an update on the work that is being undertaken by the Scottish Government, the Scottish National Investment Bank, Local Energy Scotland, communities and developers. The SNIB's response outlines that

"work includes assessing the scale and level of interest at a community level, developer considerations, how to best cater for community engagement on complex financial transactions, and the current appetite within the private sector to fund shared ownership models."

There are quite a lot of responses and material to consider. Do colleagues have any suggestions for action?

David Torrance (Kirkcaldy) (SNP): Would the committee consider writing to the minister to ask what progress has been made on exploring the possibility of utilising tax powers to mandate community shared ownership and renewable

energy developments, as indicated by the petitioner?

Fergus Ewing (Inverness and Nairn) (SNP):

As well as adopting Mr Torrance's suggestion, could we ask the Scottish Government, when we write, whether it has reached a conclusion on the matters that are set out in the submission from last November from the Minister for Energy and Environment, which said that

"officials are currently developing policy proposals for inclusion in the final Strategy, informed by the ... consultation, that will build on the successes of CARES"—

the community and renewable energy scheme—and

"our existing good practice principles for community benefit and shared ownership of onshore renewables".

In previous meetings, I suggested that community ownership can be obtained without developers necessarily making financial contributions in addition to their current community benefit payments, which are normally at the tariff of £5,000 per annum per megawatt; that perhaps they could be persuaded to add community turbines to wind farms—for example, having 20 turbines instead of 18; and that the SNIB could fund a loan of most of the capital that would be required to purchase additional turbines.

That is the model that I sought to pursue when I was Minister for Energy, Enterprise and Tourism, and was successfully pursuing until the abrupt cessation of renewables obligation certificates. I will not go into that. It was being funded by private banks including Triodos, Close Brothers and the Co-operative Bank. I really would like the Scottish Government to be asked to address that and whether it will include this particular proposal in its plans.

Finally, in addition, there will be a new incoming United Kingdom Government. It seems to me that the petitioner would very much want the Scottish Government to collaborate with that incoming Government, of whatever hue it might turn out to be, and to make up for the lacuna in legal powers by agreeing to further community ownership. That is a really important issue for many people in rural Scotland, who feel that the benefits are passing them by and going to developers, and that they are not getting a fair share.

I am sorry to go on, but it did work before. Why has the Government not addressed that? Is it considering that now? If not, will it do so, and if it will not consider that, why not?

The Convener: To be clear, are we inviting the Scottish Government to work with whoever forms the next UK Government, or are you asking the committee to write on the issue to whomever that next Government is?

Fergus Ewing: In the first instance, we should ask the Scottish Government, because the matter will go nowhere if the Government is not persuaded; if it is persuaded, this might go somewhere.

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

Members *indicated agreement.*

Redress Scheme (Fornethy House Residential School) (PE1933)

The Convener: Our second continued petition is PE1933, on allowing the Fornethy survivors to access Scotland's redress scheme, which was lodged by Iris Tinto on behalf of the Fornethy Survivors Group, some of whom are with us in the gallery today. The petition calls on the Scottish Parliament to urge the Scottish Government to widen access to Scotland's redress scheme to allow Fornethy survivors to seek redress.

We last considered the petition at our meeting on 12 June 2024, when we heard evidence from the chair and chief executive of Redress Scotland about the processes for considering redress applications. We subsequently received further submissions from the petitioner, sharing their reflections on the evidence from Redress Scotland and commenting on recent submissions from Thompsons Solicitors, the Law Society of Scotland and the First Minister.

The petitioner's second submission provides further detail to support their view that Fornethy house operated as a residential school, and includes reference material about bursaries for Fornethy house from the Glasgow education department.

We have heard a lot of evidence and the committee is clear about its direction of travel. Do members have any comments or suggestions about how we might proceed?

David Torrance: In the light of the evidence that we have heard, I think that the committee should write to the Deputy First Minister and Cabinet Secretary for Economy and Gaelic to set out to her our view that individuals who experienced abuse in a relevant care setting should be able to access the redress scheme, regardless of the length of their stay or of whether there was parental consent for their placement.

The committee might wish to highlight the view of Thompsons Solicitors that the way in which the exclusions have been introduced and applied is inconsistent with the principles of dignity, respect and compassion that are supposed to underpin the redress legislation.

The Scottish Government should also review the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 and should consult on expanding the scheme to include residential institutions that were owned and operated by the state, regardless of the length of residents' stay. The Government should also enable redress to be provided in cases where abuse was carried out in such institutions by staff who were employed by the state, regardless of whether parental consent had been provided for the child to be placed there.

The committee should also recommend that the Scottish Government introduce a feedback mechanism to improve collaboration between the Government's redress unit and Redress Scotland, to enable Redress Scotland to flag any issues or concerns about the process.

The Convener: Following the various discussions that we have had, we are persuaded by the important considerations that underlie the petition. Notwithstanding the evidence that we have heard from ministers, the committee will make a unanimous, clear and direct recommendation that the Government act in accordance with our recommendations.

Fergus Ewing: I entirely agree with the recommendations that Mr Torrance set out and with your remarks. It seems to me that there is complete unanimity among the five committee members that this is an extremely strong case and that a just grievance must be corrected.

In addition to what Mr Torrance has said, could the letter to the Scottish Government indicate that the committee is unanimous on the issue, that we feel very strongly and that we will press for a debate in the Scottish Parliament if the Government is not willing to do what is necessary?

The Convener: I am content to agree to that, too.

Obviously, we are about to go into the summer recess, so we will confirm the wording of the final draft of our letter by correspondence. In view of that, are colleagues content that any correspondence, once agreed, should be published on the petitions web page and to delegate to me, as convener, arrangements for publication to ensure that we not only send a letter to the Government, but that we make a public statement on the conclusions that the committee has reached and the firm recommended direction that the committee is urging the Government to follow?

Members indicated agreement.

The Convener: Let us hope that that makes progress. It is quite unusual for the committee to issue very specific recommendations in that way. Given the evidence that we have heard, the

Government really ought to pay some attention to our recommendations. I hope that we are accordingly able to make progress on the petition on behalf of the petitioners.

Foysoil Choudhury (Lothian) (Lab): Can you also include, for the Government, the letters from the Law Society of Scotland and Thompsons Solicitors, as evidence?

The Convener: We plan to highlight those in the letter that we draft. Obviously, we will draft a comprehensive letter that will draw from those particular sources. I think that that is important in how we manage matters.

Local Knowledge (Conservation Policy) (PE1966)

The Convener: PE1966 is on formally recognising and incorporating local knowledge in Scottish Government policy. We last considered the petition, which was lodged by the Scottish Gamekeepers Association, on 20 September 2023.

The petition calls on the Scottish Parliament to urge the Scottish Government to formally recognise local knowledge and ensure that it is given full consideration, alongside scientific knowledge, throughout consultation, decision-making processes and policy development, specifically within the conservation arena.

When we last considered the petition, we agreed to write to the Scottish Government and NatureScot. The Scottish Government's response to the committee states that

"There are no plans to revise the Scottish Government best practice handbook on consultations"

and that it does not take a one-size-fits-all approach to consultations.

NatureScot recognises that local knowledge is vital, and it seeks to incorporate local knowledge in its work and decision making in a number of ways, details of which are provided in the papers for the meeting. The submission also states that NatureScot employs staff

"from a variety of areas and backgrounds who bring local knowledge to their roles."

That is what it says, anyway.

Do members have any comments or suggestions for action?

David Torrance: In light of the evidence that we have been given, would the committee consider closing the petition under rule 15.7 of the standing orders, on the basis that the Scottish Government and NatureScot have set out their approaches to incorporating local knowledge in policy and decision making, and neither currently intends to

revise such approaches in line with the petition's request?

Fergus Ewing: I cannot demur from Mr Torrance's recommendation. I do not think that the petition is going any further, but I feel, from quite long experience, that there is some substance behind the specific concerns that are highlighted in specific examples of quangos not taking account of local people's views. I am afraid that I reached that conclusion a long time ago, and nothing has happened to make me change that view. I wanted to put that on the record.

The petition's wording is maybe a bit vague. It is difficult to see how local knowledge could be the subject of mandatory duties in legislation, but the examples that have been given of where it has been felt that the state is not really interested in what the little person in rural Scotland says are well founded, and we will no doubt come back and consider some of those in the future.

The SGA is, of course, entitled to lodge petitions on the specific matters, should it so choose. I am a member of the SGA, and I think that I have paid my subscription.

The Convener: I am similarly minded. I do not with any great satisfaction want to close the petition or accept Mr Torrance's recommendation, but the direction in the responses that we have received is such that I do not think that there is anything more that we can do at this stage to take it forward. I will not go so far as to say that I am not persuaded by the assurances that we have received, but on the basis of the evidence that I have heard in relation to other petitions recently, I am not entirely persuaded by them.

Nonetheless, members are content that we close the petition. We thank the Scottish Gamekeepers Association for lodging it. Other petitions can be lodged again in the future: I fear that some of the issues that have been identified in this one will not be resolved and might yet be the subject of future petitions.

Drug Testing Kits (PE1986)

09:45

The Convener: PE1986 is on providing testing kits for drugs in public spaces. It was lodged by Andy Paterson on behalf of the help not harm campaign. It was last considered on 23 October.

The petition calls on the Scottish Parliament to urge the Scottish Government to provide free testing kits for drugs in public spaces, such as local pharmacies, libraries and university buildings. The Scottish Government's response to our correspondence reiterates that self-testing drug-checking kits do not offer the same in-depth

analysis and harm-reduction advice that is offered by drug-checking facilities.

The submission also details the progress that is now being made towards piloting drug-checking facilities in Aberdeen, Dundee and Glasgow. The Scottish Government received more information from the Home Office about controlled drug licence applications for each area and anticipated that applications would soon be made. Do members have any comments or suggestions for action?

Maurice Golden (North East Scotland) (Con): I suggest that we close the petition under rule 15.7 of standing orders, on the bases that self-testing kits do not give as much information as lab analysis and might not indicate the presence of other substances or the purity of drugs, and that test results could be misrepresented or misinterpreted by individuals.

Furthermore, the Scottish Government suggests that testing in drug-checking facilities is preferable because harm-reduction advice and signposting to support services can be offered.

Finally, work is being progressed to pilot drug-checking facilities in Aberdeen, Dundee and Glasgow.

The Convener: In the light of the Scottish Government's responses, and Mr Golden's recommendation, which summarised them, are we content to close the petition?

Members indicated agreement.

We thank the petitioner for lodging the petition and hope very much that the progress that the Scottish Government has identified is realised in the months ahead.

Victims of Domestic Violence (PE2025)

The Convener: Our next petition, PE2025, was lodged by Bernadette Foley. Forgive me, colleagues, but there is quite a long follow-up, given the amount of information that we have received.

The petition calls on the Scottish Parliament to urge the Scottish Government to improve the support that is available to victims of domestic violence who have been forced to flee the marital home by ensuring that access is available to legal aid for divorce proceedings where domestic violence is a contributing factor; that victims are financially compensated for the loss of the marital home, including the loss of personal possessions and furniture that were left in the property; and that victims are consulted before any changes are made to non-harassment orders.

We previously considered the petition on 6 September 2023, when we agreed to write to

Scottish Women's Aid, the Scottish Women's Rights Centre, the Law Society of Scotland, the Scottish Law Commission and the Scottish Government. Members will have noted that we have received responses from all those organisations.

The Scottish Law Commission told us that, although its "Aspects of family law" project does not extend to divorce law or legal aid, it will consider whether and how survivors of domestic abuse might be able to obtain remedies against perpetrators, including for the loss of property. The commission is also reviewing the efficacy of non-harassment orders.

The Law Society of Scotland suggested that making legal aid automatically available to anyone who has made an allegation of domestic abuse could potentially open up the scheme to misuse. It also indicated its support for a victim being heard prior to any decision being taken to vary or revoke a non-harassment order, and it highlighted that that should happen automatically in a civil context, as the order would normally have been sought by the victim.

In its response, the Scottish Government noted that, in addition to an implementation board, an operational working group has been established to work through the detail of how the Domestic Abuse (Protection) (Scotland) Act 2021 could operate. It also noted that there are several challenges to be addressed in implementing part 1 of the act, which gives Police Scotland powers to issue a domestic abuse protection notice and to apply to civil courts for a domestic abuse protection order.

In their responses, the Scottish Women's Rights Centre and Scottish Women's Aid indicate their support for the aims of the petition and draw our attention to the increase in the number of victims who self-represent due to the lack of available legal aid. Members may recall from previous consideration of petitions related to legal aid that the Government indicated its intention to introduce a legal aid reform bill during this parliamentary session, but we have not yet seen such a bill.

Do members have any suggestions for action?

David Torrance: I wonder whether we could write to the Minister for Victims and Community Safety to highlight the evidence that the committee has received; to seek an update on the work of the implementation board and the operational working group to progress the implementation of part 1 of the 2021 act, including information on what challenges are still to be resolved before implementation can proceed; to ask what action has been taken to ensure that victims have the opportunity to be heard before non-harassment orders are varied or revoked; and to ask whether

the Scottish Government still intends to introduce a legal aid reform bill during the current parliamentary session.

The Convener: We should make that last point in particular, because the Parliament is running out of time to progress any such bill. Are colleagues content with that suggested course of action?

Members indicated agreement.

Literacy Attainment (PE2037)

The Convener: PE2037, which was lodged by Anne Glennie, is on improving literacy attainment through research-informed reading instruction. It calls on the Scottish Parliament to urge the Scottish Government to provide national guidance, support and professional learning for teachers in research-informed reading instruction—specifically, systematic synthetic phonics—and to ensure that teacher training institutions train new teachers in such instruction.

We previously considered the petition on 25 October. At that time, we agreed to write to the Cabinet Secretary for Education and Skills and to the General Teaching Council for Scotland.

In her response, the cabinet secretary notes that student teachers are taught about systematic—or is it "systemic"? No—it is "systematic". There are too many Ss. Student teachers are taught about systematic synthetic phonics as part of the process of gaining a broader understanding of the development and teaching of reading.

In its response, the General Teaching Council for Scotland notes that, although it sets the required design, expected component parts and other features of initial teacher education, such programmes do not aim to cover every teaching approach in detail. It also provides detail on the standards that are expected of teachers in order for them to maintain full registration, as well as on on-going efforts to develop a more effective career-long teacher education model.

We have also received two submissions from the petitioner. The first of those asks for more detail on what exactly is being taught to pre-service teachers and notes that research is being undertaken by academics in Glasgow and Dundee to evaluate current literary teaching practices. In her most recent submission, the petitioner draws our attention to international examples in Australia and New Zealand, with systematic synthetic phonics being recommended as the most effective method of teaching children to read. The petitioner has also drawn our attention to a report that explores the variability in literacy rates and policy in both the UK and Ireland.

Do members have any comments or suggestions for action? Mr Torrance, can you get your head around the tongue twister?

David Torrance: I will try.

I suggest that we close the petition under rule 15.7 of standing orders, on the basis that, in its response to the cabinet secretary, the Scottish Council of Deans of Education states that student teachers are taught about systematic synthetic phonics in the context of gaining a broader understanding of the development and teaching of reading, and that Education Scotland is developing new resources related to early reading, which will outline how systematic phonics approaches form one aspect of an overall pedagogy for early reading.

Do not ask me to say that again. *[Laughter.]*

The Convener: It is a serious issue, but I have to say that a lot of systematic synthetic phonics appeared in our words there.

There appears to have been a degree of action, although the petitioner is not altogether sure about it all. Are colleagues prepared to act? I wonder whether we might close the petition and write to the Cabinet Secretary for Education and Skills to let her know that we have done so, while drawing her attention to the fact that the petitioner feels that some of the work on the matter is a little vague. Is that agreed?

Members *indicated agreement.*

New Petitions

Alcohol Consumption (Under-18s) (PE2092)

09:54

The Convener: That brings us to agenda item 3, which is consideration of new petitions. For those who are joining us online this morning, perhaps to hear their petition being considered, I say that, ahead of our consideration of a new petition, we always invite the Scottish Government and the Parliament's independent research body, the Scottish Parliament information centre—SPICe—to give the committee an initial view on the petition. We do that because, before that was our standard practice, it would be the first thing that we decided to do on considering a petition, which simply added a degree of delay.

The first of our new petitions is PE2092, which seeks to change the law to prevent children between the ages of five and 17 from drinking alcohol in their home or in other private premises. The petition has been lodged by Jamie-Lee Dougal, and it calls on the Scottish Parliament to urge the Scottish Government to do exactly what I have just said. The petitioner notes that many adults in Scotland abuse alcohol and suggests that allowing children and young people to consume alcohol in the home or in private premises does not help to tackle those issues.

The SPICe briefing provides detail of existing legislation restricting the sale and supply of alcohol to persons under 18. Although there are no specific offences relating to allowing consumption of alcohol in the home by a child, an adult could be prosecuted, depending on the circumstances, on the grounds of child cruelty, under section 12 of the Children and Young Persons (Scotland) Act 1937.

In its response to the petition, the Scottish Government states that an alcohol-free childhood is the healthiest and best option and points to a downward trend in the number of young people who consume alcohol. It also notes that, where a child has misused alcohol, that could be grounds for a referral to the children's hearings system. Given the wide range of law, duties on public bodies and national guidance in place to protect children from harm, the Government does not intend to take forward the specific ask in the petition, but it has stated that the issue will be kept under review to assess whether further legislative measures might be required in the future.

Do members have any comments or suggestions for action?

Maurice Golden: I think that we have progressed the petition as far as possible. I recommend that we close the petition under rule 15.7 of standing orders, on the basis that the Scottish Government does not intend to take forward the specific proposal contained in the petition at this time, given the wide range of law, duties on public bodies and national guidance that exists to protect children from harm, including that caused by alcohol.

The Convener: Are colleagues content that we close the petition?

Members indicated agreement.

Scottish Ministerial Code (PE2093)

The Convener: That brings us to PE2093, on the Scottish ministerial code. In summarising the petition, I may make reference to active cases about which we should be circumspect about making any further comment.

The petition, which was lodged by Benjamin Harrop, calls on the Scottish Parliament to urge the Scottish Government to review and update the Scottish ministerial code; to put the code under statute; to enable the independent advisers to initiate investigations; and, if the First Minister decides to go against the IAs' advice, to ensure that a statement is provided to Parliament. The petition also calls for the code to set out the sanctions for breaches other than misleading Parliament and to allow IAs to make recommendations for changes to the code. It further calls for a renaming of the IA position to make it clear there is no judicial involvement and seeks to require ministers to make a public oath or commitment to abide by the code.

The petitioner believes that updating the ministerial code by making such changes would strengthen standards and improve public confidence.

Members will be aware that, as is noted in the SPICe briefing, new versions of the ministerial code can be issued at any time and that previous updates have been issued following Scottish Parliament elections and changes of First Minister.

In its response, the Scottish Government highlights the fact that the ministerial code was most recently updated in July 2023 to further strengthen transparency and propriety and states that there are no current plans to update the code during the remainder of this session of Parliament. It might be worth noting that the Scottish Government's response was provided prior to John Swinney being appointed as First Minister.

We have also received two written submissions from the petitioner, which set out in more detail how he believes that the ministerial code should

be updated to improve public trust and transparency when applying the code or investigating potential breaches of it.

Do members have any comments or suggestions for action?

David Torrance: I think that the committee should consider writing to the First Minister to highlight the petitioner's submissions, to seek clarification on what consideration the First Minister has given to updating the ministerial code since taking office and to ask him to set out the process for appointing the independent advisers on the ministerial code, including whether any consideration is given to how long they should remain in post.

The Convener: Are members content to keep the petition open and to write to the First Minister in the terms suggested by Mr Torrance?

Members indicated agreement.

Council Tax (PE2096)

The Convener: That brings us to the last of today's new petitions, PE2096, which was lodged by Eleanor Fraser. The petition calls on the Scottish Parliament to urge the Scottish Government to start a review of the council tax system to consider whether rates could be set per capita, rather than by property value.

In its response, the Scottish Government states that the Scottish ministers have pursued various means of identifying an alternative to the council tax system and highlights the work of the joint working group on sources of local government funding and council tax reform. The submission states that the group is progressing the second phase of its work, which focuses on longer-term reform.

Do members have any comments or suggestions for action?

David Torrance: In the light of the responses that we have had, I suggest that the committee considers closing the petition under rule 15.7 of standing orders, on the basis that the Scottish Government is undertaking work to consider long-term reform of local taxation, as set out in its 2021 programme for government.

The Convener: Are colleagues content with that? I very much doubt that much can happen during this session of Parliament, even if work is being taken forward, because we have only 18 months of the session left to run. Nonetheless, the Government's view is that it is still undertaking that work.

Are members content to close the petition?

Members indicated agreement.

The Convener: That concludes the public part of our meeting. We will meet again after the summer recess.

We now move into private session.

10:01

Meeting continued in private until 10:29.

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