

PUBLIC PETITIONS COMMITTEE

Tuesday 17 March 2009

Session 3

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PUBLIC PETITIONS COMMITTEE

5th Meeting 2009, Session 3

CONVENER

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

DEPUTY CONVENER

*John Farquhar Munro (Ross, Skye and Inverness West) (LD)

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)

*Nigel Don (North East Scotland) (SNP)

*Marlyn Glen (North East Scotland) (Lab)

*Robin Harper (Lothians) (Green)

*Anne McLaughlin (Glasgow) (SNP)

*Nanette Milne (North East Scotland) (Con)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Claire Baker (Mid Scotland and Fife) (Lab)

Jamie McGrigor (Highlands and Islands) (Con)

Christina McKelvie (Central Scotland) (SNP)

Nicol Stephen (Aberdeen South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED :

Annie Gunner Logan (Community Care Providers Scotland)

Simon Macfarlane (Unison)

Stephen Maxwell (Scottish Council for Voluntary Organisations)

Ian McDonald (Unite)

Shirley-Anne Somerville (Lothians) (SNP)

CLERK TO THE COMMITTEE

Fergus Cochrane

ASSISTANT CLERK

Franck David

Jonathan Orr

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 17 March 2009

[THE CONVENER opened the meeting at 14:01]

New Petitions

Public Service Contracts (National Framework) (PE1231)

The Convener (Mr Frank McAveety): Good afternoon and welcome to the fifth meeting in 2009 of the Scottish Parliament Public Petitions Committee. I have received no apologies. We have a full complement of members, which is good for the petitions that we are considering today. All mobile phones and electronic devices should be switched off during the meeting.

Item 1 is consideration of new petitions. In front of us are four new petitions and supporting information, as specified in paper PE/S3/09/5/1.

The first petition is PE1231, by Simon Macfarlane, on behalf of Unison and other associated trade unions through the Scottish Trades Union Congress; the voluntary sector through the Scottish Council for Voluntary Organisations; and Community Care Providers Scotland. The petition calls on the Scottish Parliament to urge the Scottish Government to demonstrate support for the voluntary sector by agreeing a national framework for public service contracts based on the petitioners' 2007 pact, particularly to ensure equity in wages and conditions between front-line voluntary sector workers who deliver public services and public sector workers, and to help to deliver five-year funded contracts.

Before I introduce the petitioners, I invite members to declare interests in respect of trade union membership.

John Wilson (Central Scotland) (SNP): I am a member of the Transport and General Workers Union section of Unite. I have 20 years' experience in the voluntary sector prior to May 2007.

Nigel Don (North East Scotland) (SNP): It may not be terribly relevant to our consideration of the petition, but I am a member of the Musicians Union.

Anne McLaughlin (Glasgow) (SNP): In the light of what John Wilson said, perhaps I should mention that I worked for the voluntary sector for around eight years.

Robin Harper (Lothians) (Green): I am a board member of several arts organisations that work occasionally in the voluntary sector.

Marlyn Glen (North East Scotland) (Lab): I am a member of Unison.

The Convener: I am a member of Unite.

I welcome the petitioners. Earlier, I mentioned Stephen Macfarlane of Unison. We are also joined by Stephen Maxwell from SCVO, Ian McDonald from Unite, and Annie Gunner Logan from Community Care Providers Scotland. I would need to go to Specsavers if I wanted to read the nameplates.

I understand that Simon Macfarlane will lead off. The format is straightforward: the petitioners make an opening statement, after which we move to questions from the committee.

Simon Macfarlane (Unison): I thank the committee for inviting us to appear before you today. Unison launched PE1231 to bring to Parliament the principles of the fair funding statement for voluntary sector services to which Unison, Unite, the STUC, SCVO and CCPS signed up in November 2007. We believe that its enactment is vital.

Over the past 17 months, our partners have worked together to take the fair funding statement to meetings with local authority leaders and the Cabinet Secretary for Finance and Sustainable Growth. Although we have been well received and our problems have been understood, it is clear that we need Parliament to act and put in place both the policy framework and the resources to create a fair funding system for Scotland's voluntary sector.

It is well documented that the services that are provided by Scotland's voluntary sector are not fully funded, with central administration costs and even some core services being funded by the organisations themselves. The current contract culture in Scotland's public services is overwhelmingly driven by cost, with quality being a secondary factor. As the vast majority of the work for which the voluntary sector competes is labour intensive, cost competition comes down to wages.

Although it is acknowledged that, in recent years, three-year contracts—as opposed to one-year contracts—have become more common, those still do not provide the stability that would enable services to bed in, nor do they provide space for organisations to innovate and invest. Unison and Unite members feel the effects of that daily, through uncertainty over their jobs and through pay and conditions that are significantly worse than their public sector comparators. I am sure that my colleagues from voluntary sector umbrella organisations will also highlight the

effects of the lack of fair funding on their members' work.

Our fair funding statement makes seven short and simple requests. First, it asks for a commitment by public sector purchasers to fund wages and conditions of employment for front-line staff at the same level as those of comparable workers in the public sector. Secondly, it asks for contracts for third sector providers to last a minimum of five years. Thirdly, it asks for agreement between public sector purchasers and third sector providers on appropriate use of competitive tendering. Fourthly, it asks for training for public sector commissioners. Fifthly, it asks for Scottish Government guidance on the Public Contracts (Scotland) Regulations 2006 and the discretions that they allow in regard to retendering. Sixthly, it asks for improved best-value guidance. Seventhly, it asks that the aforementioned points be enshrined in a new national contract framework.

We respectfully ask that the committee take the steps that are necessary today to move the petition forward, because the services that are provided by the voluntary sector are vital to the fabric of our society and reach some of its most disadvantaged people. Our members who work in those services do so out of their commitment to caring for the people whom they serve. However, the current funding framework puts them under severe pressure and their pay lags significantly behind that of those who work in comparable public services. The adoption of the seven key principles would transform the voluntary sector in Scotland and boost morale massively. Voluntary organisations would expend less time and fewer resources in securing funding and would be able to get on with what they are good at, which is providing innovative and creative services to the people of Scotland.

We thank you for hearing from us today, and would be delighted to answer questions.

The Convener: Do other panel members want to make comments? We will ask questions after that?

Ian McDonald (Unite): Unite, Britain's biggest trade union, in conjunction with our partners in Unison, the STUC, the SCVO and CCPC, is pleased to support the petition. This initiative came out of the STUC-SCVO partnership forum, of which we are all active members and participants, and it has the support of our members.

It is important to provide the stability and resources that enable our members to provide high-quality services to service users. In recent times, Unite has become concerned about the effect of current funding arrangements that mean that current third sector providers are absorbing

the true cost of providing the services. Wages, terms and conditions, job security and good-quality service provision are under threat. Although reports of the death of the sector may be exaggerated, that is a potential vision of the future for the sector. We need and request the support of the committee and, in turn, the Scottish Government in order that such a vision does not become a reality.

Bill Butler (Glasgow Anniesland) (Lab): Good afternoon, colleagues. I have a couple of general questions. Perhaps Simon Macfarlane can take the lead in answering, after which others can have a shy at them. First, what has the reaction of local government been to the fair funding statement's aims? Secondly, what has been the Scottish Government's response thus far to the aims of the campaign?

Simon Macfarlane: We have met a number of local authorities to outline the basis of the fair funding agreement. By and large, we have been well received and our concerns have been accepted. However, local authorities can operate only within the framework that is set out for them by the Government. In the current climate, there is reluctance on the part of authorities to be seen to take the bold step of enacting our framework on their own: they are looking for central direction, which is why we are also pursuing the issue with the Convention of Scottish Local Authorities.

We have met representatives of the Scottish Government, and we have been well received, but issues around finance have been pointed out to us. That is why we are seeking cross-party support in Parliament. We want all the parties to get behind the fair funding agreement, which we believe is required to get the necessary processes through Parliament and enacted.

The Convener: People can move their seats if they wish because of the blinds being open. Otherwise, it looks as if we have a new interrogation technique at parliamentary committees. Stephen Maxwell is marginally less affected by the sunlight than others. If I see you leaning over to the right, Stephen, I will know why.

Bill Butler: Mr Maxwell—would you care to add to what Mr Macfarlane has said, or has he described your general take on the response to the petition so far?

Stephen Maxwell (Scottish Council for Voluntary Organisations): That is indeed the general take. The claims in the fair funding statement have been around for some time. They did not originate in 2007 but have been on the agenda of voluntary organisations for at least a decade. What is particularly important about the petition and the statement is the fact that they involve, for the first time, a collaboration between

the unions and voluntary organisations to try to win fairer funding, particularly for the front-line workers who deliver services. Without fair funding for those workers, the voluntary sector's quality, and its full potential to add value to the public services that it is funded to provide, will not be realised.

We have a history of meeting council representatives over the years prior to our more recent meetings with the Cabinet Secretary for Finance and Sustainable Growth and some local authorities. As Simon Macfarlane indicated, although they have generally been sympathetic, the funding environment—at whatever stage of the process—has never been sufficiently benign to enable councils to commit themselves to the claims that are contained in the petition. We think that the capacity of the voluntary sector to contribute to high-quality public services in Scotland depends on the success of the continuing campaign.

Bill Butler: Do you have anything to add, Mr McDonald?

Ian McDonald: No—I would echo the comments of my colleagues.

Bill Butler: Ms Logan?

Annie Gunner Logan (Community Care Providers Scotland): Our partnership has taken the fairer funding statement to a number of authorities, and my organisation has taken the items or elements within it to individual local authorities quite separately. As Stephen Maxwell said, that predates our signing up to the statement.

I would echo what Stephen Maxwell said about the reaction of individual local authorities—they are certainly sympathetic to what we have to say. They work within funding constraints, as well as within the constraints of procurement regulations. We have found that every single authority is cooking up its own response to those constraints, which is why we are asking for national guidance.

Bill Butler: If I understand you correctly, you are saying that there is a need for central direction to move beyond the sympathy and warm words. Would that be correct?

Annie Gunner Logan: I believe so. Some aspects of that are already starting to happen. We are working with the Scottish Government joint improvement team, which operates in social care—it does not operate across the voluntary sector, but social care is the principal interest for my organisation. We are seeking to work with that team this summer. That work will include the Association of Directors of Social Work and other local authority interests, as we develop central guidance on good practice in procurement, for

example. Some of the work has started, but the fundamental resource constraints under which people are working are universal.

Bill Butler: The situation needs a political push.

Annie Gunner Logan: I would say so.

Nanette Milne (North East Scotland) (Con): I am sure that all of us round this table and in Parliament appreciate how much we depend on the voluntary sector. I was a councillor when we were on an annual budgeting cycle: there were real frustrations then around forward planning, so there was great relief when the three-year cycle was adopted. Is a five-year funding cycle realistic, given that councils use a three-year funding cycle? It might be difficult to commit beyond the three years. Do you have any comments on that?

14:15

Annie Gunner Logan: We understand councils' situation in that they are funded for three years, but when you consider the individuals that services support, the services that my organisations provide are lifelong. People will need a service for 20, 30 or 40 years—a lifelong service—so there must be a compromise between what a council can see in the immediate future and the knowledge that the individuals will definitely need a service beyond that time. Five years seems to be better than three but, for many people who receive services, 25 years would be preferable.

Nanette Milne: I am thinking of the practicalities.

Stephen Maxwell: Contracts are habitually more than three years in many areas of council provision, and many private sector companies seem able to get contracts that are longer than three years. I do not think that asking for voluntary sector staff to enjoy the degree of stability and security that extending the lifetime of contracts would offer is an impractical or unreasonable proposition.

Simon Macfarlane: If I could develop Annie Gunner Logan's theme, we are often talking about staff who support a person directly in that individual's own house. Three years may seem to be a relatively long time for a contract, but it is hugely disruptive for the individuals concerned and their family when a whole organisation changes over every three years. It is also distracting, unsettling and stressful for workers in that environment. Although they may transfer over to a new employer under the Transfer of Undertakings (Protection of Employment) Regulations, people in the voluntary sector tend to identify with the organisation for which they work and believe in its

ethos and its values. A transfer from one provider to another has an unsettling effect.

Robin Harper: I should have declared membership of Community Service Volunteers—I was one of the first members of the retired and senior volunteers programme, or RSVP—and the British Trust for Conservation Volunteers.

I will chip in with my knowledge of two small voluntary organisations with full-time staff that provide services for people with mental health problems and disabilities. Continuity means as much if not more to the clients as it does to the providers, so one-year and two-year contracts are certainly not what they want for the services that they access.

In small voluntary organisations that have short-term contracts, and in which three or four people are employed, you will often find that one of them spends most of his or her time looking for money for the next contract. That is a substantial waste of resources—25 per cent or 30 per cent of an organisation's funding is being spent on finding more funding. I do not know whether you want to comment further on the huge disadvantages of short-term contracts—even three-year contracts. To me, a five-year contract sounds like an absolute minimum.

Annie Gunner Logan: That is true of any organisation that does fundraising. When we come to contracting it gets slightly more complex again, because the procurement regulations now mean that many organisations have to go through a formal tendering process, which is immensely bureaucratic. A number of our members have said that the time that is spent on preparing paperwork, preparing bids and collecting the masses of information that is required for those exercises is time and effort that they should be spending on improving a service rather than on an attempt to hang on to it. That view is coming through strongly from our members, which is why procurement and tendering is a big part of our statement.

That is a relatively recent development: care organisations have always been involved in tendering for business—which is how most of them grew to their current size—but the services that they now provide, which are already outsourced, are being retendered on a cyclical basis. We think that the effort that goes into those processes would be much better spent on improving the service.

Robin Harper: How appropriate is it for organisations that provide on-going support through volunteers and full-time staff for people who need it to be subject to a retendering process that could lead to everyone being replaced or being unable to continue to provide those much-needed services?

Annie Gunner Logan: We are pretty clear on that: it is rarely appropriate. It is perhaps more appropriate for services that involve shorter-term interventions, because the same people are not passed on through a change of management, but it is a key problem in relation to long-term arrangements. It is obvious that it would have a destabilising effect on any organisation that is involved in such a tendering process, but we are most concerned about circumstances that involve longer-term or lifelong care for individuals.

Ian McDonald: The tendering and procurement process can have an effect on the small organisations, but in larger organisations, as Annie Gunner Logan said, a lot of time and resources that could be more efficiently used are spent on developing the tender. Unite certainly does not think that it is appropriate for organisations that provide on-going support to have to put in tenders.

The TUPE regulations apply, so the same staff will provide—or may provide—the service, and the service user may not see a change, but the time that is spent before the tender is awarded is destabilising for the people who provide the service. Our members take on a lot of the stress that goes with not knowing whether they will have a job or who they will be working for so that they do not put the service users in a vulnerable position. They buy into the ethos of the voluntary sector—they apply for jobs with particular organisations and might not want to work for another, which is obviously a double-edged sword with regard to TUPE. It is very destabilising.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good afternoon. I am sure that there is, among committee members, a general feeling of willing support for your plea. You mentioned that you want a national framework—that would certainly be a stabilising influence. I suggest that we speak to COSLA as well as the Scottish Government; COSLA should be at the forefront of the debate because it represents all the local authorities and agencies in the country. What response have you had from COSLA?

Stephen Maxwell: It is fair to say that COSLA is familiar with the statement's claims on fairer funding. I cannot claim that we have had any indication that COSLA's attitude to the claims has changed since the statement was agreed by Unison, Unite, CCPS and SCVO. There are forums in which the voluntary sector meets the Government and COSLA to pursue the type of issues that the statement contains. I suppose our hope is that, through the Public Petitions Committee, we will add to the pressure on COSLA and the Government to advance the case for the six principles to be summarised within a national contract framework. Of course, a framework could not be agreed without COSLA and the councils.

We know that COSLA's agreement would not necessarily bind councils, anyway.

We have not come here expecting a sort of big-bang solution to the problem. Our expectation is that Parliament, through the committee, might eventually add its weight to the pressure, which we hope will grow steadily, on the agencies that are responsible for overall funding and councils to agree to the sort of stabilisation measures that are contained in our 2007 statement. We come here with a fairly realistic set of expectations. We think that the committee can help us.

Annie Gunner Logan: I have been trying to advance this position for as long as I can remember. In the past, if we took this issue to local government, it would say, "That would be nice, wouldn't it, but there's not enough money coming in through the settlement". If we went to national Government, it would say, "That's local authorities' business. You'll have to talk to them".

We have an opportunity with the current arrangements under the concordat and so forth, because there is a partnership approach. A number of us in the voluntary sector are already involved in discussions with COSLA and the Scottish Government about some of these issues. It would be helpful if parliamentarians, particularly members of this committee, could apply some welly to that—if I can put it that way—by expressing support for the position that we are advancing.

The Convener: I presume that "apply some welly" is a technical term.

Annie Gunner Logan: It is.

Simon Macfarlane: COSLA will be wary of the impact on resources of what we are calling for. At the end of the day, it comes down to resources. We need the Scottish Government to give COSLA a clear steer with a national framework, with statutory guidance behind it. That exists in the public sector already in relation to local government and private finance initiative contracts. We tell local government that there should not be two-tier workforces. Clear messages are given to health boards about the basis on which they contract with private contractors and the impact that that has on terms and conditions. Both those things require a national framework. We seek from the Scottish Government a national framework on contracting by local authorities. Most of the contracting concerns local authorities, but we must not forget that other public bodies, such as health boards, contract with the voluntary sector.

Anne McLaughlin: I worked in the voluntary sector for a long time—you have brought back memories, shall we say. I know exactly how stressful working in the voluntary sector is. In all

the jobs that I did in the sector, I never felt that I was doing one job; I felt that I was doing at least two-and-a-half jobs. I am glad that you have come to the committee today.

As Stephen Maxwell and Annie Gunner Logan said, the issue has been around for the lifetime of the Parliament. Perhaps I have not read your petition correctly, but I do not see a costing for the framework for which you are calling. It is great that the unions and the voluntary sector have come together, but the fact that the Scottish Government has had its tightest financial settlement ever makes things very difficult. Has the proposal been costed? Do you have any idea how much it would cost?

As you know, there are projected cuts of £500 million in what the Westminster Government will give the Scottish Government in the next couple of years. Annie Gunner Logan said that local authorities say that they do not have the money and that national Government says that it is up to local authorities. National Government is facing a terrible time, given those projected cuts. You have come together to lobby the Scottish Parliament. Would you consider lobbying the Westminster Government about the projected cuts?

14:30

Annie Gunner Logan: I will lobby anyone who will listen. That is the short answer.

I agree that the timing is bad, in that we are facing shrinking public resources and all the rest of it. However, from our organisation's point of view, the timing is quite exquisite, because we have reached a point at which 80 per cent of service providers are running services at a loss and at least three quarters of them are putting in their own charitable resources to prop up public services. My colleagues from Unite and Unison presented information on the effects of that this morning in their report.

There is a question about whether what we propose is affordable, but the question that we would put back to you is whether it is affordable not to do it, given the need for sustainable services in the long term. We would have to get round the table, figure that out and take some hard decisions, but it is the principle of the thing that is important.

I am not here to plead for special treatment for the voluntary sector. We seek equal treatment: we should be treated in the same way as our public sector colleagues. There might be ramifications around the amount of service that can be delivered, but those are political decisions that need to be taken.

John Wilson: As I said earlier, I have 20 years' experience in the voluntary sector. I remember sitting round the table with Ian McDonald four years ago to discuss the provision of care services and the competition that was taking place in the sector. At that time, if my memory serves me correctly, we talked about the e-bidding process, which had been established by one local authority and was about to be taken up by a number of others. Delivering contracts for local authorities by e-bidding was almost a process of reverse auction bidding.

Have you noted any effects of the e-bidding process? Has it had a detrimental effect on the staff wages and conditions that Simon Macfarlane mentioned? When I read the quotations in Unite's report, I can almost point you in the direction of the organisations that the people work for, based on my experience in the voluntary sector. Has the e-bidding process been to the detriment of terms and conditions, or have things evened out? What is the current position?

Simon Macfarlane: We found the e-bidding process shocking. It was a race to the bottom, or a reverse auction, as you say. Thankfully, due to the amount of disdain that was widely expressed, the process has not been picked up and operated by many local authorities since then, and long may that continue. That is a clear example of how much emphasis is put on cost and how little is put on quality in the current contracting climate.

Even where there is guidance, it is not always used. For example, section 52 guidance under the Local Government in Scotland Act 2003 sets out some baseline provisions on protecting staff terms and conditions, but it is difficult to find any evidence that local authorities in Scotland use it to ensure that terms and conditions broadly match those in the transferring body.

As long as the current contracting culture remains, the focus will be overwhelmingly on cost. The fair funding statement is partly about moving quality higher up the agenda. There is no doubt that that comes at a cost, but we believe that the cost is worth it, given that the people who are supported in the community are some of the most vulnerable people in our society. They need people to advocate on their behalf, and we are here to say that they need investment in their services.

Stephen Maxwell: I echo Simon Macfarlane's comments on e-bidding. There was fear about that at one time, but happily the process has not been adopted, seemingly because of the hostility that was expressed towards it. What has been applied more widely is what we describe as routine competitive retendering—that is, competitive retendering even though there is no evidence

available to the purchasing council that the quality of the service has been poor.

In other words, there is no service reason for putting the service out to competitive retendering, which is undertaken to reduce costs. Councils, health boards and the Scottish Government are under pressure to save money. The danger of competitive retendering in the voluntary sector is that the sector is particularly exposed to the effects of downward pressure on costs, partly because many or most voluntary sector services are already underfunded. If there is further downward pressure on costs, the burden of accommodating that inevitably falls on staff wages or on the often meagre reserves that voluntary organisations carry. The sector is fragile and vulnerable.

In the past, there have been discussions about costs and attempts have been made to estimate what full cost recovery would cost the public purse if it were applied to the voluntary sector. When the Prime Minister was Chancellor of the Exchequer, he promised full cost recovery throughout the United Kingdom. On the back of the chancellor's assurance, a former First Minister agreed that full cost recovery should be applied to Scottish services, but that has never happened.

The previous Scottish Executive, the Convention of Scottish Local Authorities and the SCVO made an attempt to cost full cost recovery; I think that Annie Gunner Logan and CCPS were involved in that work. The full cost of all public services that are delivered through the voluntary sector came in at anywhere between £30 million and £100 million a year. At the time, it was accepted that, even in a more benign financial environment, it would not be possible to introduce full cost recovery in a year. However, the voluntary sector hoped that there would be an agreement to introduce it over two or three years, or at least within a three-year public funding cycle.

In the past, we have been disappointed by the failure to apply full cost recovery. The only indication of costs that we have today is the historical measure to which I referred, which covers a fairly wide range. The cost of full cost recovery is affected by initiatives such as the move towards providing a minimum living wage in Glasgow, which the voluntary sector welcomed. If that is applied to external providers in the voluntary sector—as is Glasgow City Council's ambition—it will mean an increase in wages for a significant number of voluntary sector workers. I am afraid that the cost of full cost recovery is a bit of a moving target, because it is affected all the time by new developments. It would have to be recalculated around a specific commitment to introduce it within a specific timeframe.

Ian McDonald: I refer members to the dossier that Unite has produced. Eighty-eight per cent of respondents thought that their employer was under increased financial pressure this year compared with previous years; I have not met any of the 12 per cent whose employers have not been under increased financial pressure. Seventy-three per cent of respondents have experienced negative effects on their working conditions and/or their pay and benefits as a result of funding cuts or retendering. I have not met any of the remaining 27 per cent who have experienced positive effects, but they may be out there somewhere.

From day to day and from week to week, Simon Macfarlane and I come across members who are faced with cuts—in real terms—to their pay and terms and conditions. Organisations may be successful in winning a tender or contract, but a number of tenders make no provision for pay increases. That is the reality of the situation as it affects our members.

John Wilson: I am interested in the competitive retendering process and the experience of the SCVO and others. Who tenders, or is asked to tender, for the work? The issue has been raised with me of voluntary sector organisations competing with one another for contracts. Before coming to the Parliament in May 2007, I had to apply annually to the 32 local authorities for funding for the organisation that I worked for, which was very difficult. I sympathise with members of the voluntary sector who are trying to get funding for three years or whatever.

For me, the issue is that voluntary sector organisations that deliver similar services compete with one another, which can lead to the cutting of terms and conditions for their staff. As has been pointed out, some organisations can save on a contract only by cutting terms and conditions. Would it not be more appropriate to bring together the voluntary sector organisations that deliver similar services across local authority boundaries and elsewhere, sit them down and get them to consider the best way forward for the sector? Rather than, for example, six voluntary sector organisations competing for the same contract and cutting one another's throats, they could come together, have a contractual agreement not to bid for the same contract and enhance the terms and conditions that they bid against.

Annie Gunner Logan: I could not agree more. I have lodged with the committee clerk for members' consideration reports that my organisation has published. We analysed 14 tendering exercises across 10 local authorities, which involved about 19 organisations. When we looked at the transfers of business that were a result of the tendering exercises, we found that, by and large, the same organisations swapped

business between each other. I call that work my mayhem chart because of all the effort and paperwork that goes into those tenders.

That happens because of how the tendering competitions are set up. The voluntary sector is famously responsive to its environment; if organisations are put in a competitive environment, they will compete with one another. However, we advocate that, if tendering exercises must be done, they should be done in a way that encourages a consortium of organisations to respond, because their back-room costs could be shared, there would be economies of scale and so on.

We must be aware, though, that it takes time to set up such methods. We have a live tender that invited bids and encouraged consortium bids within a four-week time limit. For independent organisations, some of which have a history that goes back decades, that is not a realistic proposition. However, we certainly promote tenders being constructed in that way, because organisations respond to tenders as they are constructed rather than build them themselves.

Marlyn Glen: I think we all realise that there is never a good time to ask for more money and that funding must be worked at all the time. We cannot say, "Wait—it'll be better soon." I think, too, that there is agreement that, during an economic downturn—or, as Annie Gunner Logan suggested, a crisis—we have a special duty to protect the vulnerable and must work harder to do that.

I, too, congratulate the organisations behind the petition on getting together to develop the campaign. I appreciate that you have a realistic, long-term aim. I am sure that all members round the table agree that we should, in principle, add to the increasing pressure for the proposed national framework. It is certainly wide ranging and it needs agreement on all levels. However, I am worried that there is a limit to how much the Public Petitions Committee can do. I suggest that we can best progress the petition by recommending that the Local Government and Communities Committee take it up and consider it more widely and in greater detail. The petitioners obviously have a great deal more information than the evidence that they have given us.

I make that suggestion because I realise that you do not expect an immediate solution. The campaign will be long, and it will need your tenacity and that of others. I wish you good luck, and I hope that you will not mind if one of our suggestions is to ask you to resubmit your evidence to the Local Government and Communities Committee.

14:45

Stephen Maxwell: I wonder whether, as well as the Local Government and Communities Committee, the Finance Committee would be a forum at which a claim of this sort might be discussed. I do not know whether the Public Petitions Committee is allowed to direct a petition towards two committees at the same time, but the Finance Committee would certainly be a forum.

The Convener: You are trying to make us really popular.

I will take a few more comments, but I am conscious of the time and would like to move on.

Anne McLaughlin: I want to reiterate a point that I made earlier. It will sound party political but, believe me, it is not.

I urge the organisations that are represented on the panel to join together to do something about the £500 million of cuts that we are expecting. Those cuts will have a devastating effect on Scotland as a whole and a terrible effect on the voluntary sector. As the witnesses have explained so well, the voluntary sector is suffering.

John Wilson: I will add to the number of committees to which we could forward the petition. For the services that are covered by the petition, much of the funding is joint funding from health boards and local authorities so it might be worth while forwarding the petition to the Health and Sport Committee, too. In most care services for vulnerable adults, a multi-agency funding approach can be taken and things are done in partnership. In North Lanarkshire and South Lanarkshire, some services are provided both by the local authorities and by Lanarkshire NHS Board.

We must raise the profile of the issue, because serious concerns arise. If we want to protect people's terms and conditions of employment, and to protect services, we will have to consider all possible means of providing funding. We should therefore refer the petition to the Health and Sport Committee as well.

Robin Harper: In the past, petitions have been referred to two or more committees, when that has been felt to be useful. Petitions have certainly been referred to two committees.

I agree that the petition should go to the Finance Committee, as long as that does not delay action for too long. We have to balance considerations of the number of committees to which we can send the petition against considerations of the time that it will take to get something done. We want to make progress as quickly as possible.

Simon Macfarlane: We were asked about the Government at Westminster. Yes, we pursue the

issue at Westminster. For example, Westminster has direct control of the follow through of funding for the supporting people programme. We pursue issues at a United Kingdom level.

Marlyn Glen mentioned tenacity; yes, we have the tenacity to make progress on this issue, and we thank committee members for their comments.

On parliamentary progress, we would be guided by committee members, who know how best to proceed with the petition. We would certainly want the opportunity to pursue the issue within the Parliament—whether in the Local Government and Communities Committee, the Finance Committee, the Health and Sport Committee, or a combination thereof. We would give all those committees the same messages on behalf of our organisations. We hope that the Public Petitions Committee can help us to make progress in the Parliament.

Bill Butler: I have no objection to passing on the petition to the three committees that have been mentioned. However, I would like to make a few supplementary suggestions, and I will follow the example of my new colleague, Ms McLaughlin, by not going along spurious party-political lines, because that is not what we are here for. She is quite right about that.

It is obvious that the petition raises an issue of justice and—as the petitioners said—equal treatment. Under questioning, the petitioners agreed that now is the time not simply for tea and sympathy but for a political push. I will suggest how we begin to push central Government and perhaps other levels of government.

As well as referring the petition to the three committees that colleagues suggested, we should write to ask the Scottish Government several questions. I will suggest some questions that strike me. Will the Scottish Government agree to establish a national framework for public service contracts, as outlined by the petitioners, and if so, when? If not, why not? What is the Government's position on each of the six main components that would form the framework? Is it developing any specific elements of the 2007 pact? Does it accept the claim that poorer terms and conditions have created a two-tier workforce? If so, what is it doing to resolve that problem? What plans does it have to improve the standard of public sector commissioning, given its stated objective of achieving high-quality personalised services? As we operate not in a vacuum but in the real world, are additional measures being implemented or planned to help the third sector, given the effects of the current crisis in the economic system?

Asking those questions as part of our correspondence with the Scottish Government might prove helpful. We might want to talk to local

government, too. I am sure that other members have suggestions.

The Convener: We are identifying what we wish to do, so if other members have suggestions in addition to Bill Butler's, it would help to hear them now.

Anne McLaughlin: Are we talking about sending the petition to three committees and progressing it ourselves? If we are progressing it ourselves, I agree with Bill Butler's suggestion of writing to the Scottish Government for its views. I would also like to write to COSLA. I understand what the witnesses said about COSLA not being particularly in favour of the proposal in the petition, but we could ask for its thoughts anyway. Perhaps we could also write to a sprinkling of local authorities for their views.

The Convener: We will pull together all the suggestions in a moment.

We have debated the involvement of other committees. If they were involved, one committee would have to be the lead committee, which it would be best for those committees to determine—identifying that is not our role. The petitioners will know that the voluntary sector transcends the silos or portfolios in national and local government. The clerk has told me that we can draw the petition to other committees' attention. Perhaps the conveners of those committees can address the best way to deal with the petition.

If we referred the petition to another committee, would it be difficult for us also to explore the issues with the UK and Scottish Governments, and with local government?

Fergus Cochrane (Clerk): Several options are available to the committee. The petition can be referred only to one committee, so the committee would have to decide which committee to refer it to. Given that members have expressed views about cross-cutting issues, we could flag up to the clerk of that committee—the Local Government and Communities Committee, for example—members' desire to seek the views of the Health and Sport Committee, the Finance Committee and perhaps other committees.

If members decide to refer the petition to another committee, that committee will decide its approach to the petition. However, in addition to referring a petition, members have decided in the past to write to ask the Scottish Government specific questions, the responses to which went to the committee to which the petition was referred.

The Convener: So, we could combine members' suggestions with referring the petition to another committee—I wondered whether we would be precluded from doing that.

We will discuss the options further, then try to find some light at the end of the tunnel.

John Wilson: I would also be keen for us to seek the Government's view on the current best-value policies, because a number of issues have been raised about how best value applies and is interpreted. It would be useful to know whether the Government intends to review the best-value policies.

As well as writing to local authorities, it might be useful to write to a few health boards, given that they, too, commission work from voluntary sector organisations. It would be useful to find out about health boards' interpretation of the commissioning process and of best value.

Nanette Milne: Basically, I agree with what has been said—in particular, I agree with what John Wilson said about best value. Given what Anne McLaughlin said about the costing, it would be important for the Finance Committee to be among the committees to which we refer the petition. I must put on record that I cannot commit my party to fully supporting the fairer funding statement, given the financial implications of doing so. The party's financial expert would not be pleased.

Bill Butler: Oh, go on, Nanette—just do it.

Nanette Milne: Voluntary sector workers should have fair pay and conditions.

The Convener: I think that you might win that fight; we would give you 100 per cent support.

Nanette Milne: I go along with the suggestion that we should refer the petition to other committees, which is important.

The Convener: Do members have any other comments or suggestions, before we wind things up?

Nigel Don: Stephen Maxwell said that the proposal under discussion had been around for a long time and was aspirational. I think that he said, roughly, that the funding position has never been benign enough for folk to commit to the proposal. We are well aware that the funding position in the next year or two will not be benign enough to expect anyone to change the view of the past eight or 10 years. That suggests to me that we will not make a huge amount of progress on the overall aspiration—which I can understand—very quickly.

That is why I suggest that we hold on to the petition for a little while. We should seek the information that colleagues have asked for—on which I will expand in a moment—and once we have obtained a bit more information, we should reflect on what it would be sensible for us to do with the petition and in what timescale. Otherwise, there is a risk that we will just scatter it around the

Parliament and people will turn around and say exactly what Anne McLaughlin has just said—“Sorry, guys, there isn’t the money and it won’t be available for a year or two.” Everything will be put on hold and there is a risk that the petition will just disappear into a big black hole.

The additional folk to whom I suggest we talk are the directors of social work. In particular, if we write to the current president of the Association of Directors of Social Work, both in that capacity and as the director of social work at Dundee City Council, which has taken a slightly different view of competitive tendering, I think that we will get some useful information.

Robin Harper: In the original presentation, the point was made that even though, in many cases, voluntary organisations pay their full-time staff less than their equivalents in the public sector and have passed that sacrifice on, they are still having to subsidise their public sector work out of their own funds. It would be useful and salutary for the Government to respond to that point.

Bill Butler: It might also be helpful to write to some local authorities to ask them whether they support the statement.

I would like to comment on what my good colleague on the Justice Committee and on this committee, Nigel Don, has just said. I think that it is more likely that the petition will disappear into a big black hole—to use his words—if we accept as our starting point the expectation that we will not get very far. Our starting point must be that we will push the petition as much as we can with all levels of government. That is the attitude that we must adopt; it is the attitude that the petitioners want us to adopt and it is the attitude that the petition demands. We should adopt it because the petition is out for equal treatment and justice and, if we agree with it, as I think we do, we should be out for equal treatment and justice full stop.

The Convener: Do you want to respond to that, Nigel?

Nigel Don: Bill Butler knows fine well that that was not what I meant. My concern is that the petition follows an appropriate process. I do not want it to disappear into anyone else’s black hole, and the best way to ensure that that does not happen is to keep it in our hands. I agree with Bill Butler.

Bill Butler: I am delighted with that clarification.

15:00

The Convener: There is an understandable difference over the direction to take.

I see that Annie Gunner Logan wants to speak. Are you going to provide healing words?

Annie Gunner Logan: They will not necessarily be healing, but they will be focusing. We have talked a lot about our aspirations. All of us—Parliament, Government, COSLA, social work directors, unions, employers and staff, many of whom are here today—share the aspiration for care services to be based on personalisation, achieving outcomes and skilled support rather than basic tasks. That is what we ask our staff to provide. Our question is whether we will achieve that by driving down pay and conditions through competitive tendering and resource constraints. Our view is that we will not achieve the aspiration in that way; instead, we will achieve it by responding to the petition and raising the standards of care by raising the terms and conditions of the people who supply it. That is a final bid from me.

The Convener: I have been reasonably patient for an hour, but we have passed the 3 o’clock mark, so I will take the convener’s prerogative. I have been in different roles as an elected member, including councillor, council leader and local government minister, and it seems to me that the debate about the voluntary sector is a bit like Scottish country dancing at school—you were terrified to make the first step to choose who to dance with and then petrified about whether the dance would be successful. I am a confident individual, so I was okay.

Bill Butler: That is right—I have seen you dancing, convener.

The Convener: I understand what Government ministers and local government colleagues will be thinking just now. We need to get a broad framework, so it is reasonable to try to open up the debate. We will naturally have partisan political debates about resources in Scotland—that is a legitimate direction for political representatives. Local and national decisions can have a material impact on the quality of services that are provided by the voluntary sector.

We have discussed whether the committee should retain the petition or invite another committee that has a more material interest in the subject to deal with it. The add-on is that colleagues have raised questions that we should ask to try to pursue the matter. On balance, that might be a better way in which to interrogate some of the issues and get a broader framework that everybody buys into. Such issues are difficult for any minister. God bless some of the civil servants who are sitting here, but the instinct of any civil servant is to be cautious. Sometimes, somebody needs to say what direction we want to move in. We need to set out the standards of quality that we want and the role of the voluntary sector. We have the language of the new concordat and the partnership approach with local government, but

we need to beef that up with a legitimate parallel for the voluntary sector.

I am keen to make progress. I seek comments from members on how to progress in a way that keeps the aspirations in the petition moving in a reasonable direction. The witnesses are all experienced individuals—you are not daft and you know that it takes time to get negotiations and agreements. You hope for a debate that is a bit more open to give you a fair opportunity to engage in it. As I see it, that is the petition's ambition. Surely we should try to pull that together. I seek consensus on moving the petition on to the next stage. That would be helpful in providing the debate that the petitioners want to have with key local and national decision makers.

Bill Butler: We largely agree on which bodies we will correspond with and the content of the correspondence, so we should fire off that correspondence to the various levels of government and other bodies and await the replies. Based on the content of those replies, we can then decide which committee it would be appropriate to refer the petition to. That will also give the clerks time to make informal inquiries with their colleagues from the three committees that have been suggested and to produce a recommendation on the most appropriate one for the petition.

Anne McLaughlin: That was exactly what I was going to say, just not as eloquently.

The Convener: It is astonishing what happens when healing words come in.

It is suggested that we pull together the two perspectives that were being debated. As petitioners, you will know some of the process. We will determine the course of the petition at another meeting. You have stressed the issue of time, so we will try to expedite the key correspondence. Public bodies are sometimes truculent in response to the committee. We have dealt with that in the past, and it is unacceptable.

We will endeavour to get a quick response in time for our next meeting at the Parliament, which may be in a month's time, if we are lucky. The next meeting, in a fortnight, will be in another part of Scotland. Because the recess is coming up and we have to give bodies time to respond, the first meeting in May is the best timescale that we can give you. We can then determine how best to take the petition forward through the committee structures, if appropriate. Equally, when we receive the responses, the committee may decide that it wishes to retain the petition.

I assure you that we will not let go on this issue. The noble language would be that, now that the Parliament is 10 years in, one of our next big projects should be to consider what to do about

the constant anomaly in the voluntary sector. Despite the endeavours of Scotland's largest authority to make a commitment to its staff and, I hope, its other providers, that anomaly has a consequence for the voluntary sector in respect of the current resource allocation. Those of your staff in that sector will, quite rightly, say, "I'm doing the same work as someone in a local authority, but they're getting paid a higher rate." If people meet the criteria, why should they not be given the equivalent? However, as you will know from when you go through the allocations mincer, you might not be getting the same resource allocation.

We need to take the issue a bit further forward. It will be no consolation to you that this is the longest that we have spent on a petition in my time as convener—and I have hardly said anything. That is remarkable and it demonstrates willingness among members to do what they can. You have been through this often enough and you have had big disappointments. We will not kid you on, but we will do what we can as a committee and as members to assist a very worthy petition.

We have reached agreement, so I hope that it has been a productive afternoon for you. Those of us who managed to be outside for the photo opportunity might see ourselves on television tonight. Being a modest kind of guy, I was there for the cameras.

Middle East (PE1238)

The Convener: PE1238, from Deryck Beaumont, on behalf of the Scottish Palestine Solidarity Campaign, calls on the Scottish Parliament to urge the Scottish Government to urge the United Kingdom Government to expel the Israeli ambassador from the UK until Israel shows that it is prepared to accept that it is not above international law. I invite comments and questions from committee members on the petition. The committee has received some additional information from the petitioner, which arrived earlier today and which I think has been distributed to members.

Robin Harper: I declare an interest, as I am a member of the Scottish Parliament cross-party group on Palestine.

The Convener: Other members may wish to declare their interests.

Bill Butler: I, too, am on the cross-party group on Palestine.

Marlyn Glen: As am I.

The Convener: I am as well.

Robin Harper: The petition places us in a similar position to that in which we have been placed regarding a few other petitions. Whether or

not we agree with the terms of the petition, the question is whether we are an appropriate body to progress it in the way that the petitioner requests of us. The issue is reserved. It lies entirely within the powers of Her Majesty's Government in Westminster. That is my observation. The only thing that could be done with the petition is to refer it to the Scottish Government, requesting a response.

Bill Butler: I do not want to shut the petition down. I wish to assure the petitioner, who sent his e-mail on Monday 16 March 2009, that none of my committee colleagues wishes to shut the petition down or to silence the petitioner or those who agree with him. It is absolutely an important issue.

The petitioner has a point in the sense that, although the matter is reserved, the terms of the petition are such that it is appropriate for us to deal with it—it asks the Scottish Government to urge the Westminster Government to follow a certain course of action. Whether people think that the suggested course of action would merely exacerbate the situation, rather than leading to a two-state solution and the implementation of United Nations resolution 242, is beside the point.

I think that we should write to the Scottish Government, asking for its view on the thrust of the petition.

Marlyn Glen: I have huge sympathy with the petition. We have discussed the matter in Parliament twice very recently. One of those occasions was a members' business debate that was secured by Pauline McNeill; the other was a debate about the humanitarian disaster in Gaza, when the Parliament debated what the Scottish Government could do to help from a humanitarian, devolved, point of view.

I share other members' feelings about the difficulties regarding the reserved-devolved issue, and I wonder whether expelling an ambassador would not make discussions more difficult rather than easier. However, that is a moot point. I agree with Bill Butler's suggestion that we write to the Government to ask it what its view is.

Nigel Don: I broadly agree with everything that has been said. We have a problem with things that are reserved, and we must tread very carefully. I do not think that we should go down the route of throwing out all such petitions on the basis that they concern reserved matters. It is one of the aspects of Scottish Government and Scottish parliamentary life that we must address—we need to accept that.

However, as colleagues have said, the petition before us throws into stark relief the nature of those petitions in which people call for something very specific, and it can be difficult for us to endorse such specific points. Therefore, I join Bill

Butler and Marlyn Glen in suggesting that we need to find another way forward. We should get something to the Government saying that the petition seems to make a point, but we need to be careful not specifically to support the very particular point that the petitioner makes. We probably need some wisdom from our clerks to write that letter, so that we can make suitable progress, but that is the line that we have to try to draw.

15:15

The Convener: Do members have any other observations or comments? The recommendation is that we should write to the Scottish Government.

Bill Butler: We should seek its views on the proposal in the petition. I think that that is all that we can do.

The Convener: Do members agree with that suggestion?

Members indicated agreement.

Same-sex Marriage (PE1239)

The Convener: PE1239, from Nick Henderson, on behalf of the LGBT Network, calls on the Scottish Parliament to urge the Government to amend the Marriage (Scotland) Act 1977 to allow two persons of the same sex to register a civil marriage and a religious marriage if the relevant religious body consents. Members have the petition and the background papers in front of them.

Bill Butler: This petition is more straightforward. We should write to the Scottish Government to ask it a number of questions. First, we should ask whether it will amend the Marriage (Scotland) Act 1977 to allow two persons of the same sex to register a civil and a religious marriage. If not, we should ask why not. If so, we should ask how and when the Government will take that forward. I think that that covers the thrust of the petition.

Marlyn Glen: I support that entirely. The suggested amendment is part of on-going progress in our society. Things are moving on and it would be very good if Scotland could take a lead, rather than just waiting for the outcome of the case that is before the European Court of Human Rights. We should take a lead in Europe on this. We should write to the Scottish Government. I hope that we will get a positive response.

Robin Harper: I suppose that I should declare a partial interest in that I am a member of the Episcopal Church and some people in that church support the position that is taken in the petition and think that they should be free to perform

religious services to supplement the civil services that are already available. We should write to the Scottish Government.

John Wilson: We have to open up the debate on this issue. We should write to the Government, but it might also be useful to write to the Scottish Inter Faith Council to get its view. We should also write to some of the non-mainstream religious organisations. I am aware that the Humanist Society of Scotland and the Pagan Federation now have celebrants who can perform civil marriages. I was at a wedding last year at which a member of the Pagan Federation conducted the ceremony. A couple who were at the wedding would have loved to have gone through the same ceremony but, because they were a same-sex couple, they were denied that opportunity. Now is the time to review the legislation and find a way forward that encompasses the whole of society and allows organisations—where they deem it appropriate—to carry out the marriage ceremony that is appropriate to the individuals and which accords with their desires. It might be useful to write to other organisations to get their views on the petition. If we do that, the Government does not have to do so. We can try to pre-empt that.

The Convener: I am conscious that I really do need to go to Specsavers, because I have just realised that Shirley-Anne Somerville is here to speak to this petition. I apologise, Shirley-Anne.

Shirley-Anne Somerville (Lothians) (SNP): Thank you, convener. I was beginning to wonder whether you had forgotten about me over here.

The Convener: That is never the case.

Shirley-Anne Somerville: I thank members for the comments that they have made. Robin Harper made the key point that there are people within faith communities who have expressed a willingness to carry out these ceremonies. It is unfortunate that the law does not allow them to do so. I welcome John Wilson's point about people who are not religious and are looking for a humanist service but who cannot get that type of service either. We have to bear in mind that important point. I put on record my support for the petition. Civil partnerships have been a positive step forward from what we had in the past, but there still remains an inequality in the law.

Nanette Milne: The proposal adds a different dimension to the discussion that we had in 2004. As the quotes from the then Deputy Minister for Justice show, the debate at that point was about giving rights, responsibilities and legal protection to people who had been in a stable relationship for a significant time. Thinking might well have moved on in the past five years. I have to say that I have an open mind on the issue. I have no objection to taking the petition further, but I agree with John

Wilson that, in doing so, we should seek the views of various religious bodies—and of non-religious bodies, for that matter.

Marlyn Glen: We should write to the Equality Network for its opinions, too.

The Convener: Okay. I think that we have got broad agreement. We will take on board all the comments that have been made.

I thank Shirley-Anne Somerville for her contribution.

Siamese Fighting Fish (PE1240)

The Convener: The final petition today, from Chris Law, calls on the Scottish Parliament to urge the Scottish Government to take measures to ban pet retailers from keeping Siamese fighting fish in small and restrictive tubs of water in their shops.

Do members have any observations to make?

Bill Butler: We should write to the Scottish Government to ask whether it will ban pet retailers from keeping Siamese fighting fish in restrictive tubs of water and, if not, why not. We should also ask whether any relevant measures are already in place and find out whether, if they are in place, they are being properly enforced in a uniform way.

Nanette Milne: I do not know anything about Siamese fighting fish or how many of them are being kept in whatever conditions. However, I would be interested to hear the views of the Fish Veterinary Society and the Scottish Society for the Prevention of Cruelty to Animals on the matter.

The Convener: I see that John Wilson is in a pensive mood.

John Wilson: No, I am just trying to remember whether the various tropical fish societies around Scotland come together under one umbrella organisation. I am sorry to be pedantic about this but, if the clerks can find out whether there is a Scottish tropical fish society, it might be helpful to put questions to people who are involved in it. The people who keep tropical fish might be best placed to advise us what kind of conditions they keep their fish in and whether there are problems with the way in which pet shops or other stockists of fish keep Siamese fighting fish.

Robin Harper: According to the information that is provided by the petitioner, the best conditions for these fish are relatively demanding. They should have at least 5 gallons of water and the temperature of the water should be kept between 24°C and 28°C. I do not know what the relevant legislation says, but I would have thought that pet shops should take pains to ensure that the people who are buying these fish are able to keep them in those conditions and will not put them in an ordinary unheated goldfish bowl.

Marlyn Glen: It might also be important to write to local authorities and ask them for details of the ways in which premises are inspected and how often that happens.

The Convener: We will write to the organisations that have been suggested and see whether we can get information that will help us with the petition.

Item 2, which involves consideration of PE1171, will be dealt with in private. I apologise to the members of the public who have just entered the room. Sorry about that—trust me, though; you might not be missing a lot.

15:24

Meeting continued in private until 15:55.

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