

PUBLIC PETITIONS COMMITTEE

Tuesday 2 June 2009

Session 3

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PUBLIC PETITIONS COMMITTEE

10th 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 :

Margaret Curran (Glasgow Baillieston) (Lab)

Christine Grahame (South of Scotland) (SNP)

CLERK TO THE COMMITTEE

Fergus Cochrane

ASSISTANT CLERKS

Franck David

Linda Smith

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 2 June 2009

[THE CONVENER *opened the meeting at 14:01*]

New Petitions

The Convener (Mr Frank McAveety): Good afternoon. I welcome committee members and members of the public to the 10th meeting in 2009 of the Scottish Parliament Public Petitions Committee. We have received apologies from a couple of members: Marlyn Glen is unavailable because of other commitments, and John Farquhar Munro is not feeling well. All mobile phones and other electronic devices should be switched off because they can interfere with the broadcasting system.

Medical Negligence (Pre-NHS Treatment) (PE1253)

The Convener: The first petition that we will consider this afternoon is PE1253, from James McNeill, which calls on the Parliament to compel the Scottish Government to establish a discretionary compensation scheme to provide redress to persons who suffered injury due to negligent medical treatment prior to the establishment of the national health service. Christine Grahame has expressed an interest in the petition. I welcome her to this afternoon's proceedings and invite her to comment on the petition.

Christine Grahame (South of Scotland) (SNP): Mr McNeill is here today to hear his petition discussed. I am grateful to the committee for allowing me to speak to it.

Members will see from the petition that the journey started on 26 August 1942, when, as a young man, Mr McNeill went for radiology treatment of warts on his hands, which was fairly routine at the time. I understand that each hand should have been exposed for a couple of minutes, but Mr McNeill was exposed for 20 minutes. Over the years, the ensuing damage has had a major impact on his life.

I am grateful to the Scottish Parliament information centre for the briefing that it has provided. I may touch on one or two parts of that, but I refer first to a medical report on Mr McNeill from 1980 written by J A A Hunter, head of department, who is now a skin specialist and professor at the Edinburgh royal infirmary:

"There is gross deformity of the right hand. This is considerably smaller than the left, due to the very small digits. The hand is the size of that of a child".

In the section headed "Opinion", J A A Hunter states:

"This patient's considerable deformity fits in with the story of an overdosage of X-rays to his hands when he was six. He has radio-dermatitis affecting both hands and there is considerable soft tissue and bony change ... X-ray treatment of warts is not recommended nowadays but was used fairly frequently in 1942 ... It would seem certain that there was either a mistake in the prescribed dosage or a fault in the administration of the prescription. In either case the patient clearly received an excessive exposure to X-rays and I am in no doubt that this has been responsible for the considerable deformity."

The document indicates that there was negligence.

My constituent then approached Highland Health Board, which had taken over responsibility for the matter. In a letter dated 30 July 1997, a health board officer stated:

"My enquiries have revealed that all case notes for the period concerned at the Royal Northern Infirmary are missing or destroyed. I also discovered that during the war, records were removed from the hospital to a nearby air raid shelter and only a few were returned and restored by the Archivist, although unfortunately not your record."

I was successful however in finding a patient register which shows that you were treated as an in-patient at the Royal Northern Infirmary from 18th October 1946 to 8th November 1946 for 'treatment to hand'."

Of course, that pre-dated the NHS.

A letter to Mr McNeill from NHS Highland in June 2008 says:

"you ask that NHS Highland takes full responsibility for the subsequent disabilities and hardship you have had for the past 66 years."

It refers to the letter dated 30 July 1997 and says:

"In this letter the Board indicated that they were unable to trace any record of your case apart from an entry in the Admission Register of the Royal Northern Infirmary. In the absence of any further records, NHS Highland is unable to progress this matter any further."

With your leave, convener, I will come to why I am dealing with these bits of evidence.

A consultant vascular surgeon at Edinburgh royal infirmary, Mr S C A Fraser, said of Mr McNeill in a letter written on behalf of NHS Lothian in 2007:

"He has clearly been through the mill with the radiation injury to his hands. The bottom line is that I do not think there is anything that we can do to assist him, other than reinforce conservative measures that he is already taking."

Therefore, no more remedial action can be taken.

A letter dated 13 March 2008 to Mr McNeill from NHS Lothian states:

"It is therefore with the deepest regret that I have to inform you that unfortunately due to the passage of time since the incident, and also that it occurred under the jurisdiction of another health board, we are unable to process your specific complaint of radiation overdose."

In a letter to me dated 18 July 2008, a general practitioner from Penicuik Medical Practice said of Mr McNeill:

"His is a most unfortunate case. His hands were damaged as a result of radiotherapy, which he received in 1942. His disability is slowly worsening as he gets older, which compounds the effects that this radiation has had. It does seem unjust that there is no means by which the State or the NHS can provide him with the financial means to live comfortably and independently."

On 3 November 2008, I wrote a letter to the Cabinet Secretary for Health and Wellbeing in which I gave the background to the case. I said that Mr McNeill

"has tried over the years to obtain through the usual routes, compensation, but because the events took place in wartime—1942—and tracking personnel and medical records have been difficult, a claim never took off. What is not in dispute is that he went in for treatment for warts to his hand and came out with the hand burnt badly from over exposure to x-ray treatment."

I sent the cabinet secretary copies of correspondence. She replied in a letter dated 15 November 2008:

"I was sorry to learn of Mr McNeill's long term problems following the procedure carried out on his hand in 1942 and appreciate that this will have caused him much distress over the years."

I note that the procedure was carried out some six years before the NHS was established."

She went on to say:

"I regret that I cannot be more helpful on this occasion."

In other words, no particular remedy was offered.

That is the route that Mr McNeill has gone through. The SPICe briefing mentions trienniums and the usual court routes. An advocate, Colin Campbell, gave a legal opinion on the matter on 16 December 1980. At the beginning of that opinion, he said:

"I have no doubt that an action against the N.H.S. is now well and truly time-barred."

So that is it. At the end of the opinion, he said:

"I can only express sympathy for Mr. McNeill in the unfortunate circumstances of this case, especially if only now is he to experience direct patrimonial loss but this factor in itself will not have postponed the commencement of any prescriptive periods. He can perhaps find consolation in the fact that, even if an action could be raised, the difficulties of proof at this late stage would render the prospect of success extremely problematical."

That is why I read out the stuff about the loss of records. Not only has the triennium passed, but evidence to bring the matter to the standard of proof in a court—there are ways of doing so, but it

is almost impossible in this case—is simply not available.

Finally, I wonder whether the cabinet secretary might find room in the proposed patients' rights bill, for which provisions on no-fault compensation for cases subject to litigation are being considered, to introduce some remedy for the very small number of people whose symptoms were mistreated before the NHS was established. I should stress that I am suggesting that these people were badly treated by the standards of the time, not in light of the progress that has since been made in medical treatment.

The Convener: Thank you. Do members have any questions or comments?

Nanette Milne (North East Scotland) (Con): Christine Grahame's comments have reminded me of the ex gratia payments—not, I stress, compensation—made to the haemophiliacs who contracted hepatitis C as a result of treatment. It might be worth asking the Government whether a parallel approach could be taken to this matter.

Robin Harper (Lothians) (Green): There is no doubt that we should pursue the possibility of a discretionary compensation scheme. Having read the material, I find it very disturbing that someone should have suffered so much from what was clearly a mistake, although I point out that in 1942 not very much was known about the effects of radiation. I remember frequently getting my feet X-rayed before being bought a pair of shoes, which is something that we would never do now.

The effects of radiation were kept secret: in 1945, people were allowed into Hiroshima after it had been bombed and were wandering about for weeks in a highly radioactive atmosphere. However, if the guidance of the time specified two minutes and Mr McNeill was exposed to radiation for considerably longer than that, a mistake was obviously made.

Anne McLaughlin (Glasgow) (SNP): As we will all acknowledge, Mr McNeill has been through the mill. The mistake happened in 1942, but as a result he has had to visit his GP 80 times and to have seven major skin graft operations. If the Scottish Government can look into this matter, we should certainly ask it to do so. As the petitioner makes clear, the fact that it happened in 1942 means that his case will not open the floodgates for thousands more people to come forward with claims. Nevertheless, if other people have suffered in the way that he has, we should push this matter forward and see what we can do for them.

Bill Butler (Glasgow Anniesland) (Lab): I tend to agree: Mr McNeill has suffered a real injustice. If we are going to ask the Government whether it will introduce a discretionary compensation scheme, we should also ask whether the National

Health Service (Scotland) Act 1947 contains any clauses specifying that the NHS or the Government takes on liability for pre-NHS negligence and, if so, whether they apply in these particular circumstances.

The Convener: We are trying to be helpful. Obviously we—and the petitioner—realise that some time has elapsed and that the legal framework has changed somewhat. However, it might be reasonable to refer the petition for consideration to the working group that, as Christine Grahame alluded to, is looking into no-fault compensation. Even though many people might not have been as severely affected as Mr McNeill has been, we still need an accurate picture of the situation and the likely cost implications for the Government if we ask it to move in that direction. We should also ask the Government about the framework that it operates in this respect.

Do members have any final comments?

14:15

Christine Grahame: The only comment that I want to make is that Mr McNeill is driven not by money but by the wish for somebody somewhere to recognise what has happened to him. Of course, he could do with assistance now that the deformity of his hand is getting worse as he gets older. However, he is driven by the fact that nobody who dealt with him has ever said sorry or at any time taken responsibility. I am grateful to the committee for taking the matter up; it is the first time that anyone has done that.

The Convener: On that final point, there is an element of personal justice that needs to be sustained, and we will want to ask whether the cost elements can be dealt with. Those are legitimate issues for Mr McNeill or anybody else to come forward with. The fundamental issue is the individual's sense of worth and a recognition of the experience that they have undergone. If we can address that by opening up the debate through the petition, that will be welcome.

Robin Harper: Would it be possible for us to investigate what other supports might be available—fiscal supports, charity supports or Government supports through benefits—that have not yet been tried?

The Convener: There has been a fair amount of exploration of that, but we could summarise what has been done.

I advise the petitioner, who is in the public gallery this afternoon, that we are at stage 1 of the process and will come back to the petition when we have received further information from the Scottish Government and anyone else with whom

we have made contact. Mr McNeill has an advocate in Christine Grahame, who is pursuing the issue on his behalf, and we hope that that will be of benefit to him as a petitioner. I thank Christine Grahame for her attendance for that item.

Fire (Scotland) Act 2005 (PE1254)

The Convener: The next petition is PE1254, by Mark Laidlaw, calling on the Scottish Parliament to urge the Government to amend section 51 of the Fire (Scotland) Act 2005 to allow flexibility in order that an employee of a fire and rescue authority can also be employed as a special constable.

Christine Grahame has a keen interest in the petition, too. We will need to think of other things to keep you busy, Christine. I invite you to open the debate.

Christine Grahame: My Tesco surgeries keep me busy.

There are a couple of questions to be asked in relation to the petition. Mark Laidlaw makes it plain that he is employed as a full-time firefighter and acted as a special constable with Lothian and Borders Police for a considerable period before somebody came along and said, "You can't do both—you're barred." Being a special constable is the same as being a constable. In other words, if a firefighter was also a special constable, who would know which hat they were wearing at the scene of a fire? Would they be there as a firefighter or as a constable? Mark Laidlaw thought that, when he was not performing his special constable's duties, he would be just like any other member of the community.

There seems to be some dispute about the provisions in section 51 of the Fire (Scotland) Act 2005. National Policing Improvement Agency circular NPIA(WSU)(SC)(07)1 states:

"Section 37 of the Fire and Rescue Services Act 2004 prohibits the employment of members of a police force by a fire and rescue authority for the purpose of discharging any of the authority's functions under the Act".

I thought—as did my constituent—that he was not a warranted police constable but a special constable and a constable only when he was on duty. There seems to be some conflict between the advice that is being given by the Government and the advice that Mr Laidlaw has been given.

I have here an e-mail to Mr Laidlaw from Andrew Leigh, of Lothian and Borders Police, which states:

"Re your query, I have been informed by Training Branch at FHQ that Special Constables are only classed as having 'police powers' during the actual time they have paraded alongside other officers in their capacity as a Special Constable.

Should any such officer have cause to intervene in any incident they see in the street ... then they would do so as

a civilian and not as a Police officer. It would therefore hold that Special Constables are not 'on duty' 24/7 and given this is a 'voluntary service', that makes sense."

According to that e-mail, Mr Laidlaw is not warranted.

However, this further e-mail came back to me on 25 May from Mr Laidlaw himself. It says:

"It transpires that special constables do have the same powers as regular officers. The Training Department of Lothian & Borders Police were unaware of this. They have been teaching recruits that Specials do not have Police Powers when off duty. Unbelievable that they did not know the facts."

Nobody seems to know whether special constables are warranted or not warranted. The first question is whether special constables have the same powers as regular officers when they are off duty. If the answer is yes, that would prohibit them from doing the two jobs and would finish the matter. If the answer is no, why should there be differences across different brigades? Another e-mail says that it is really up to the chief constable to decide whether someone can come in as a special officer. There is a third leg to the matter: in England and Wales, a special constable is not deemed to be warranted.

In that mix, we need to find out what the legal status is of a special constable when not performing their duties as a special constable. That is the question that nobody seems to have clarity on. If it turns out that they are the same as a constable, that would end the matter of whether they are able to do both jobs, as there would obviously be a conflict of roles. If they are not, why should special constables not come from the fire brigade? I hope that I have not confused the committee now. If a special constable is not warranted, what is to stop a full-time firefighter doing that really valuable job in the community? There is a list of things; clarity is the first thing that I would appreciate.

The Convener: Do members have any comments?

Bill Butler: Christine Grahame is right to say that clarity is called for. The situation is confused—and confusing. We could write to the Scottish Government to ask what the rationale is behind section 51 of the Fire (Scotland) Act 2005 and whether it will amend that section to allow an employee of a fire and rescue service to be employed as a special constable. If the Government replies that a special constable is a warranted constable, we could ask for the section to be amended so that a special constable could be made exempt—in other words, a constable who is not warranted. That would allow one hat to be worn on one occasion and another hat to be worn on another occasion. If we do not ask for clarity on that, we will remain in a confused and

confusing situation, which is not a good situation to be in.

John Wilson (Central Scotland) (SNP): I suggest that we write to the Association of Chief Police Officers in Scotland, the Chief Fire Officers Association, the Fire Brigades Union and the Scottish Police Federation to ask for their views on the issue. It would be appropriate to ask both sides—the management and the staff bodies—to find out if there might be a potential conflict in people carrying out both roles.

The Convener: The issue of other emergency services has also crossed my mind. Does the same situation apply to paramedics, too, for example? Might the reverse be true for retained firefighters? I am thinking in particular of rural areas. Let us try to pull all those things together.

There are no other comments from committee members, so I invite Christine Grahame to make any further comments if she wishes.

Christine Grahame: Bill Butler is right. I would add that, if special constables are held as warranted, the Government might wish to review that. Perhaps special constables did not quite know that that was the situation. As I have said, there seems to be confusion even from the guidance that has been issued.

The Convener: We will take that course of action for the petition.

We have concluded the new petitions; we will now come on to current petitions. Other MSPs are here, keen to participate in discussions on some of them. Is that your duties over today as an auxiliary member, Christine?

Christine Grahame: I think so, yes.

The Convener: We could put you down as a part-time member of the Public Petitions Committee and see what happens.

John Wilson: Or a special member.

The Convener: Yes, a special member.

Christine Grahame: Not special constable, but special committee member.

The Convener: Thank you, Christine. See you in a fortnight. Take care.

Christine Grahame: I am leaving my warrant behind.

Current Petitions

14:25

The Convener: Are committee members happy to take the second current petition on the agenda first, given that Margaret Curran is here to speak to it?

Members indicated agreement.

Young Offenders (PE1155)

The Convener: I welcome Margaret Curran to the meeting. PE1155, from Elizabeth Cooper, calls on the Scottish Parliament to urge the Government to amend the law to ensure that young people who are aged between 10 and 18 and who are charged with serious offences are tried by the criminal justice system, rather than the children's hearings system.

We have had a couple of opportunities to consider the petition, and Margaret Curran has spoken on it previously. I invite her to make any further comments before we decide what to do with the petition.

Margaret Curran (Glasgow Baillieston) (Lab): Thank you for taking me a bit earlier—I appreciate it. I know that Mrs Cooper and her family would want me to thank the committee for its sustained interest in the petition and for helping them to delve into the roots of the issue. The petition talks about amending the law, but what has also been revealed is how the children's hearings system operates. Even if this were not all that the family aimed to achieve, the limitations of that system have been shown and suggestions as to how it could be improved have been made. Mrs Cooper and her family are determined to get to the bottom of the issue. They feel frustrated that they are not getting answers to their questions and they genuinely appreciate the committee's assistance in getting some answers.

Can I say a few more words? I do not want to be presumptuous.

The Convener: I am loth to encourage you, Margaret, but on you go.

Margaret Curran: I remind members that Mrs Cooper's son was badly assaulted three years ago. He has lasting damage, to the extent that he still finds it difficult, as a young lad of 16, to go out. The perpetrators of the assault still freely walk the streets of his community. Mrs Cooper and her son feel that no justice has been done and that the issues have not been addressed. There are questions to be asked about the operation of the children's hearings system.

Members raised some interesting questions when the committee discussed the petition previously. The correspondence from officials has not really addressed the fundamental questions that are being raised. Mrs Cooper has asked that we pursue that again, and she has asked whether, as her MSP, I could be involved in discussions with officials and any members of the committee who might want to be involved.

Ultimately, it is unsatisfactory that the perpetrators of the assault face no further action from the children's panel. We acknowledge that the case is in effect done and dusted, but even if you do not agree that the law should be changed so that future such cases go to the High Court, we have to understand what went wrong with the children's hearings system, and perhaps consider how we can improve the system so that we do not get a situation in which perpetrators walk the streets without any due account and victims feel as if justice has not been done. We have not exhausted the discussion yet.

The Convener: Margaret Curran will recognise that the committee's dilemma is down to the timescale and the fact that due process has to be followed. However, we are not unsympathetic to any attempt to make the system more responsive. The petition clearly indicates a family traumatised by the experience that the son went through. We need to try to find ways to address that.

Bill Butler: Obviously, members have tremendous sympathy for the Cooper family, and the young man who was attacked. I am not averse to having another shy at entering into dialogue on the case with the Scottish Government, and establishing why no further action is being taken. Part of the problem is that the explanation is not clear, transparent or acceptable. However, Margaret Curran and all other members will be aware that we would not want to try to fetter the discretion of the Lord Advocate. Of course, young people between 10 and 18 can be charged and indicted in the High Court.

I guess that in order to give some degree of closure—perhaps that is the wrong word, but it is the only one that I can think of—to the Cooper family, it might be worth having another shy at getting a clearer explanation and rationale as to why what happened happened.

14:30

Robin Harper: I agree with Bill Butler. If we decided to refer the petition to the Justice Committee, I am 100 per cent certain that its reply would be that the children's hearings bill will be introduced at the end of June and that it would be appropriate for the petitioners to see whether anything is wanting in that bill and to campaign,

perhaps through Margaret Curran, for amendments to be made to strengthen it if they think that that is necessary. I cannot second-guess what will be in the bill.

The Lord Advocate already has discretionary powers to prosecute people under the age of 16. As I understand it, the bill will certainly not change that, nor will it be within its remit to change the powers of the Lord Advocate; it will simply change the powers of the children's hearings system. Perhaps something could be added to the bill to suggest that the children's hearings take a stronger view about when it is necessary to refer cases to the Lord Advocate.

I am just trying to think ahead to what could happen in June. If we referred the petition on, we would refer it to the Justice Committee. We could keep the petition open for the sake of getting more information, but the most sensible thing to do would be to look at what the children's hearings bill says and consider whether changes should be made to it. Changes would have to be made to it through lobbying for amendments; that would not be done through us.

Nanette Milne: I agree with Robin Harper. Does the bill still have to go out to consultation?

Robin Harper: That stage has passed.

Nanette Milne: I was just thinking that there could have been some input from Margaret Curran and the Cooper family, but if the bill has passed that stage, any input would have to be made at the amendment stage.

The Convener: The clerk has indicated that there was discussion early in January with the Cooper family. It might be worth exploring another option for further discussion to provide an update and to see what could be fed into the bill. Perhaps the family would be reassured by that process. I sense that members would at least like to have another shy at getting a clearer explanation. However, we acknowledge that, to mix my sporting metaphors, we are in the final furlong of the shy.

Nigel Don (North East Scotland) (SNP): It seems to me that, as with so many of our petitions, there are two issues. One is the particular case that still concerns those who were affected by it. I am not sure what we can do to get more explanation for them. If you have asked for an explanation, but you have not got it, you are not going to get it. However, if we can do something to twist an arm, let us do it. These people want to understand, so they should be told anything that they can be told.

The second issue is how we can ensure that such situations do not arise in future. I presume that that is exactly the issue that the forthcoming

children's hearings bill is intended to address, along with many other issues. It would therefore be sensible to pass the petition to the appropriate committee. I use that term because we do not yet know whether the bill will go to the Justice Committee, so we need to be careful on that point.

John Wilson: As others have done, I suggest that we keep the petition open. We need to see how the framework in the forthcoming bill deals with the issues that are raised in the petition. The family who are involved might not get all the answers that they want from the various authorities about how the case was handled. However, we should keep the petition open until we see the framework in the bill and find out whether it addresses the issues to do with the children's hearings system and its relationship with the Lord Advocate.

We have heard in evidence about issues to do with what happened in the hearings system and at the Lord Advocate's level. Ultimately, it would have been up to the Lord Advocate to decide whether to proceed with the case in the court system. I hope that, when the bill is introduced, it will give an indication of how that relationship will be developed, if it has to be developed. That will mean that everybody has a clear understanding of how such cases will be dealt with in future. Unfortunately, that might not bring about the result that the family want, but I hope that, in future, the system will be clear and transparent so that we have confidence that, if such a situation ever arose again, people would be accountable and would have to answer for the decisions that were made.

The Convener: We have a clear indication from members. We should take on board the points that have been made. I think that we want to keep the petition open, which will benefit the petitioner, and to explore one or two issues.

I ask Margaret Curran whether she has any final points.

Margaret Curran: I do not want to take up too much time. John Wilson summed up the main point exactly and Bill Butler referred to it earlier. The issue is the transparency and accountability of decision making. The lack of that is deeply frustrating for people. One problem that they have is that it is difficult to have influence when the issue is not about the letter of the law. In essence, the issue is how the law is applied, rather than the law itself, and people want to get behind those processes. The petitioners feel as though the processes have not been explained clearly to them and that they have not got to the root of the matter. They feel that, if such a situation were to occur again, there is no reassurance that others would not have the same experience.

I would be grateful if the committee kept the petition open. We will pursue the issues in the legislation, so that other families do not have to go through the same experience.

The Convener: We have reasonable agreement. I hope that the petitioners will be pleased with the progress that has been made again today. Let us hope that we get further dialogue and that the process is made clearer for the benefit of the family.

Margaret Curran: Convener, do I have the committee's authority to have another meeting with officials to clarify the forthcoming bill and to discuss how the family's experience relates to it?

Fergus Cochrane (Clerk): If it is okay with the committee, we will write to the Scottish Government to invite it to get in touch with the petitioner and you to make arrangements for a meeting.

Margaret Curran: That is helpful, because a meeting will allow us to explore the points that have been raised.

The Convener: I thank Margaret Curran for her time and I thank the petitioners for finding time to come to the Parliament again—you have been regular visitors. I hope that Margaret has given you a nice cup of tea.

Deep Vein Thrombosis (PE1056)

The Convener: PE1056, from Gordon, Jane and Steven McPherson, calls on the Scottish Parliament to urge the Scottish Executive to introduce mandatory assessment tools for all health boards for the diagnosis of deep vein thrombosis; to ensure commonality of patient guidance information regarding DVT; and to introduce a newborn screening programme for the factor V Leiden gene, which has been shown to increase susceptibility to DVT. We have additional items of correspondence that were not in the original papers for the meeting but which were received in the past few days.

Nanette Milne: I have taken an interest in the case. I recently attended a seminar on the topic of deep vein thrombosis. The patient guidance seems to have been sorted out now, although one health board was late in supplying information. However, I am not yet convinced that there are mandatory assessment tools for deep vein thrombosis in all health boards. A final decision on the screening of newborns for the factor V Leiden gene has not been made. We are not likely to get one until October next year, when a Scottish intercollegiate guidelines network guideline will appear. Is it possible to suspend consideration of the petition until then? I would like to see a bit more detail before we close the petition.

The Convener: That is a reasonable suggestion. We will suspend consideration of the petition until the SIGN guideline appears.

War Veterans (Health Care) (PE1159)

The Convener: PE1159, from Mrs S Kozak, calls on the Parliament to urge the Government to provide NHS Scotland and other relevant organisations and individuals, including veterans of the 1991 Gulf war, with all necessary information and facilities so that veterans who have been exposed to nerve agents and their preventive medications are assessed, advised and treated appropriately and fatalities are prevented. We have considered the petition in the past. There are outstanding issues on which we are seeking further information, so I suggest that we continue the petition, unless members are minded otherwise.

Members indicated agreement.

The Convener: We will continue the petition until we have received an explanation on issues of concern that we have discussed previously.

National Concessionary Travel Scheme (PE1162)

The Convener: PE1162, from Sally Ann Elfverson, on behalf of the Learning Disability Alliance Scotland, calls on the Parliament to urge the Government to amend the national concessionary travel scheme to ensure that people receiving the lower rates of the mobility and care components of disability living allowance are eligible for a national entitlement card. In recent months, we have received a number of petitions relating to entitlements and the national concessionary travel scheme. I suggest that we suspend consideration of the petition, given that we are awaiting a Scotland-wide review of the system. John Wilson is keen to comment further.

John Wilson: If we have received other petitions of a similar nature, I suggest that in future we consider them together, rather than separately.

The Convener: That is a helpful suggestion.

Robin Harper: I thoroughly agree with John Wilson. It has been brought to my attention that the young student card for reduced-rate bus travel expires when people reach the age of 26. Many mature students who could benefit from extra help with their travel expenses suddenly lose the card when they turn 26. That is one of many issues that have not been addressed. It could be considered if we looked at all the petitions relating to the scheme together.

Magazines and Newspapers (Display of Sexually Graphic Material) (PE1169)

The Convener: PE1169, from Margaret Forbes, on behalf of Scottish Women Against Pornography, calls on the Parliament to urge the Scottish Government to introduce and enforce measures that ensure that magazines and newspapers containing sexually graphic covers are not displayed at children's eye level or below, or adjacent to children's titles and comics, and are screen sleeved before being placed on the shelf. I know that a number of members have received communication on the matter—a campaign has recently been established.

Bill Butler: Given the seriousness and complexity of the subject to which the petition relates, we should consider inviting the Cabinet Secretary for Justice to give oral evidence to us. That would be helpful.

The Convener: Although Scotland's Commissioner for Children and Young People is in a transition period, it might be worth hearing his views, as well as those of the Cabinet Secretary for Justice.

14:45

Robin Harper: I was struck by the quotation from the National Federation of Retail Newsagents in paper PE1169/I:

"we have no means of monitoring or enforcing compliance"

with the voluntary code

"and our members can abide by the guidance or not, as they choose."

That is the situation, so the petition must be kept alive and pursued.

Nanette Milne: We should keep the petition open. Would the issue benefit from a round-table discussion with interested parties?

The Convener: We have established the principle that we wish to pursue the issue. We need to think about how we pull together a round-table discussion or whether we should use a different format. We might not get agreement today, but we can ask the clerk to come back to us with suggestions. There have been a couple so far, which is helpful.

Nigel Don: The petition is hugely important and, if we simply go for the normal paper chase, we will be at it for a long time with stakeholders reiterating the position that they cannot do anything and that they do not think there is a problem. We will not make much progress until we get them at the table here—not necessarily all together, although it might be—to confront the issues rather than hide behind bits of paper.

Bill Butler: I hear what Nanette Milne said about a round-table discussion. I am not against that in principle, but I would prefer a more focused questioning of the Cabinet Secretary for Justice and the children's commissioner. In that way, we would get evidence and be able to interrogate it. I am sure that a round-table discussion would be productive, but I always find it more difficult to sift through such discussions and get the salient points—perhaps that is just me—whereas there is more chance of the points at issue being aired in an evidence-taking session. That is a personal point of view.

The Convener: We should consider both. That would be useful. From that, we can work out the areas that we wish to interrogate further. The matter is substantially subjective in some cases. The NFRN will claim that certain things make it difficult to enforce the voluntary code, but we all know that newsagents—whether small, local stores or national retail chains—have different approaches to the visibility or otherwise of material that is not appropriate for youngsters. We need to try to deal with that.

Anne McLaughlin: The petitioners are looking for an enforceable code. It is not permitted to sell cigarettes to people under a certain age—it is 18 now, I think—sell alcohol to a certain age group or display certain things. The situation with displaying sexually graphic material is similar: newsagents are not supposed to do it. The issue is finding a method of enforcing the code to ensure that they do not display such material. That is not necessarily something that the sector itself should police—I do not know whether you were suggesting that, convener. It is not responsible for policing alcohol and cigarette sales.

We say that retailers are not allowed to display inappropriate material, but we do nothing about it when they do, and the petitioners are after something that changes that.

The Convener: Okay. We wish to keep the petition open and to explore options and broad parameters for people to invite. We will come back to the committee on the best format for that. Is that agreed?

Members indicated agreement.

Road Bonds (Sewers and Drains) (PE1185)

The Convener: PE1185, by Andrew Kaye on behalf of the Coopersknowe residents association in Galashiels, calls on the Parliament to urge the Government to amend the relevant legislation to ensure that sewers and drains associated with roads from new developments are included in road bonds and to give local authorities enforcement powers in that regard.

This is an issue that all of us are aware of and which can impact disproportionately on new developments in our constituencies.

Bill Butler: Perhaps we could write to the Scottish Government to ask whether it is fully satisfied that the relevant law is working as well as it can and that situations such as the one that the petitioner experienced will not occur again. We could also seek assurances that the Government is protecting residents by ensuring that developers and Scottish Water fully understand and meet the requirements that are made of them.

John Wilson: We should also write to Scottish Water and Waterwatch Scotland.

The local authority's role in the process is important because it is the only authority that can enforce a bond. Given that the local authority would be ultimately responsible for the upkeep of the roads on estates if it took over the bond, we might want to ask about the views of either a selection of local authorities or the Convention of Scottish Local Authorities. Local authorities might take on responsibility for the roads but, as we know, many services now run under those roads. We need to protect the interests of local authorities as well as those of the residents in the estates.

The Convener: Do we agree to keep the petition open and explore the issues that John Wilson and Bill Butler have raised?

Members *indicated agreement.*

The Convener: Some local authorities have written to us already, and we will pull all of that together.

Health Visitors (PE1198, PE1199 and PE1200)

The Convener: PE1198, PE1199 and PE1200 relate to health visitor programmes and public consultation with service users and health professionals before any substantial change in primary care provision is enacted.

PE1198 is from Dr Anne Mullin and Dr Phil Wilson and concerns the role of health visitors and the process that is followed by their local health board. PE1199 is from Dr Georgina L Brown and concerns similar issues. PE1200 is from Peter Cawston and Dr Kate Pickering and is on consultation, engagement and the process by which services are redesigned.

The petitioners gave the committee a thorough explanation of the issues when they appeared before the committee, and we have received many pieces of correspondence, some of which make for stunning reading as they tell us a lot about

people's experience of the administrative processes of their health board.

Bill Butler: On the specific situation that gave rise to the petitions, I understand that the petitioners are now contributing to the local implementation plans of the NHS board involved. Given that that is the case, perhaps we should close the petitions. I do not see what further steps this committee can take.

The Convener: We have tried to address the specific issues of the petitions. Obviously, the petition process has thrown up other operational matters that are not unfamiliar for health boards across the country—the experience of this committee shows clearly that people's experiences of health boards' processes can be less than happy. However, I agree that we should close the petitions.

John Wilson: Your last point is relevant. We should ensure that health boards and other public agencies get the clear message that, when we talk about public consultation, we are talking about meaningful public consultation. Although the petitioners are satisfied that they are now as engaged in the process as they can be, other health boards and public agencies should be aware that people are looking for meaningful public engagement and should not have to submit a petition to the Scottish Parliament to ensure that they get it.

Robin Harper: In her letter, Jane Walker, the nursing officer, says:

"the agreed principles confirm that every GP practice will have an attached health visitor within the primary health care team. Every patient and GP practice will know who their health visitor is and how to contact them."

I take some comfort from that letter as, in my opinion and I am sure the opinions of others, health visitors are absolutely central to a health service that takes care of people from their birth into their later life.

Nanette Milne: I agree with what has been said so far.

The letter from Dr Anne Mullin and Dr Philip Wilson and the letter from Dr Peter Cawston speak about the demoralisation of the health visiting profession in Glasgow as a result of the issues that have been raised with us. Significant concern has been expressed about the unmanageable workloads that have been placed on some of those health professionals. As we close the petitions, can we bring those letters to the attention of the health board?

The Convener: They are on the public record and can be accessed by anybody, so I think that we can do that. There should be no issues of confidentiality. I hope that the health board will

read the *Official Report* of our discussions in any case, given that we are dealing with an issue that was the subject of petitions that attracted such a high number of signatures.

Athletes (Rural Areas) (PE1219)

The Convener: PE1219, by Christina Raeburn, calls on the Parliament to urge the Government to ensure that adequate funding is available to allow talented young athletes in rural areas to travel to competitions at regional and national level, and to provide coaching support and training facilities across Scotland so that no talented young athlete in a rural area is disadvantaged as a result of their location.

Nigel Don: We should write to the Scottish Government to point out the inconsistencies in the information that we have received and ask it how it reconciles the statements about, on one hand, funding being available and, on the other, no one having any. The Government ought to be able to say where it thinks that that funding will come from. When it does so, we can go back to that source and say, "Hey, guys. We think you've got that money because the Government says so."

This is one of those situations in which no one is prepared to pick up the ball. We need to get the Government to tell us where it thinks that the ball is.

15:00

The Convener: There is a series of other questions in our papers. We can pull them together with regard to national policy and local application. All members have had families come to see us on behalf of talented youngsters, and we always feel at a loss because there is not much that we can do to help because of the difficulties in accessing funding.

Do we agree to the suggested action?

Members indicated agreement.

General Practitioner Dispensing Practices (PE1220)

The Convener: Petition PE1220, by Alan Kennedy, calls on the Parliament to urge the Government to review all relevant legislation to ensure the continuation of general practitioner dispensing practices in instances where commercial pharmaceutical practices apply to operate in the same local area.

We are still waiting on further information from the Government on the regulatory framework for pharmacies in local neighbourhoods. With that in mind, I suggest that we suspend consideration of the petition until we receive further clarification.

We can then reconsider the petition at a subsequent committee meeting. Is that okay?

Members indicated agreement.

Scottish Flag (Parliamentary Chamber) (PE1224)

The Convener: Petition PE1224, by John Blyth and Helen McNeill, calls on the Scottish Parliament to consider displaying the flag of Scotland in the parliamentary chamber.

Do members have any suggestions on how we should deal with the petition?

Nanette Milne: The Scottish Parliamentary Corporate Body's response states clearly that it does not intend to pursue the request, so I do not see that our committee can do anything more. I suggest that we close the petition.

The Convener: Are there any other comments?

Anne McLaughlin: We could keep asking until the corporate body gives in.

John Wilson: I suggest that we thank the corporate body for its response but acknowledge our disappointment that it has failed once again—the issue has been raised on three occasions—to take on board the suggestion that the flag of Scotland be displayed in the chamber.

Bill Butler: I think that we should acknowledge the corporate body's decision without commenting on it. I say that on the basis that, if we want to try again, there is no point in upsetting the corporate body. That would allow us to come to a unanimous view on the petition.

The Convener: The clerks have been trying to clarify the matter for me, but they have probably made it even less clear. Perhaps they can articulate the matter to me again.

I am told that the previous petition—curiously, its number was 1066, which is serendipitous—was closed after some to-ing and fro-ing. Perhaps two issues need to be considered. First, the corporate body has the responsibility to determine its processes as a collective body on behalf of the Parliament, even though individual members might disagree with some of its decisions. Secondly, I understand that some members feel more strongly about the issue than others and do not want to let the issue pass by. On the previous petition, we passed comment on the corporate body's response by saying that it would have been helpful to have been given a further explanation. I mention that just for information.

Bill Butler: We could ask the corporate body for the rationale behind how it reached its decision.

The Convener: That might open up 800 years of history.

Bill Butler: It might, but we will not be able to go through all 800 years. With respect, I suggest that we respond to the corporate body by noting that this is not the first time that it has arrived at such a decision and ask whether it cares to outline the reasons behind its decision. In that way, committee members can at least fully inform themselves about the issue.

The Convener: I am not sure that this will be a solution—I know that members hold different views—but I suggest that we note the decision of the corporate body and ask that it continue to examine and review its policy on the representation of symbols and flags within the debating chamber. I think that everyone around the table could feel comfortable with that suggestion without us needing to get the absolute wording right. Perhaps I should have been a lawyer—I try my best. Would that be helpful?

Bill Butler: That would be very helpful. Given that flags are flown outside the Parliament building, perhaps we could ask whether we could have another flag on 1 May as well.

The Convener: Can we close the petition?

Members indicated agreement.

The Convener: Good stuff.

Assisted Dying (Referendum) (PE1228)

The Convener: The final current petition is PE1228, by George Anderson on behalf of the Militant Retired, which calls on the Scottish Parliament to urge the Government to hold a referendum on assisted dying and for there to be a debate in Parliament on the issue.

Do members have any views on how we should deal with the petition?

Nigel Don: In many ways, this is very simple because progress has been made. First, the Government is quite clear that it will not hold such a referendum, even if that is within its gift. If the Government's answer is no, that is about the size of it. Secondly, the bill proposal from Margo MacDonald MSP has now received the requisite number of signatures—plus two, as she says—so her bill will be introduced to the Parliament. As that will be the next process through which the issue will be discussed, I suggest that we can close the committee—I mean the petition.

The Convener: You nearly got an affirmation for that previous suggestion.

Can we close the petition in light of Nigel Don's recommendation?

Members indicated agreement.

New Petitions (Notification)

15:05

The Convener: We move to agenda item 3. Are members happy to accept the notification of the new petitions that will come to us in due course?

Members indicated agreement.

The Convener: We have had a number of petitions around the same broad issue, so we have tried to work out which petitions we can consider prior to the recess and which might be dealt with afterwards. Such is the nature of the timing. The clerk has been in discussion with the petitioners because three or four of the petitions deal broadly with the different issues surrounding Glasgow City Council's schools proposals.

Work Programme

15:06

The Convener: Agenda item 4 is our forthcoming work programme, on which we have a paper from the clerk. Do members have any questions? I think that the clerk is just seeking our affirmation on the proposed work programme.

Does everyone have a copy of the paper?

Nigel Don: I am not blaming anybody, but I do not know where my copy is.

The Convener: It is a single piece of paper.

Nigel Don: Oh, it is right here.

The Convener: It is a slim piece of paper, so it is easily missed by men of a certain age, Nigel.

Moving on—before I get into further trouble—I might say that the paper is essentially about our continuing work in holding external meetings throughout the country. The suggestion is that we have a meeting on Monday 21 September in Alness. The suggested format is that we focus our attention in particular on school students, local community council organisations, various other organisations and anyone within the broad geographical area who has submitted a petition.

Nigel Don: How broad is that area?

The Convener: It could be Scotland-wide.

Nigel Don: Perhaps anywhere north of Stirling.

The Convener: Are we happy to accept those arrangements for our next external meeting?

Members *indicated agreement.*

The Convener: That concludes the public part of today's meeting. We will now go into private session, so I ask all members of the public who are present to vacate the room. In private, we will discuss a committee report that will be published within the next few weeks. I thank the members of the public who have been in attendance.

15:08

Meeting continued in private until 16:23.

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