



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# PUBLIC PETITIONS COMMITTEE

Tuesday 26 October 2010

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**PUBLIC PETITIONS COMMITTEE**  
**15<sup>th</sup> Meeting 2010, Session 3**

**CONVENER**

\*Rhona Brankin (Midlothian) (Lab)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

\*Bill Butler (Glasgow Anniesland) (Lab)  
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)  
\*Nigel Don (North East Scotland) (SNP)  
\*Robin Harper (Lothians) (Green)  
\*Anne McLaughlin (Glasgow) (SNP)  
\*Nanette Milne (North East Scotland) (Con)  
\*John Wilson (Central Scotland) (SNP)

**COMMITTEE SUBSTITUTES**

Jamie Hepburn (Central Scotland) (SNP)  
Jamie McGrigor (Highlands and Islands) (Con)  
Dr Richard Simpson (Mid Scotland and Fife) (Lab)  
Nicol Stephen (Aberdeen South) (LD)

\*attended

**THE FOLLOWING ALSO ATTENDED:**

Bob Doris (Glasgow) (SNP)  
Alex Johnstone (North East Scotland) (Con)  
Mr Frank McAveety (Glasgow Shettleston) (Lab)  
Alison McInnes (North East Scotland) (LD)  
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)  
Dr Richard Simpson (Mid Scotland and Fife) (Lab)

**THE FOLLOWING GAVE EVIDENCE:**

Chief Superintendent Charlie Common (Association of Chief Police Officers in Scotland)  
Chief Constable Mick Giannasi (Association of Chief Police Officers)  
Jessie Harvey (Poverty Truth Commission)  
Martin Johnstone (Poverty Truth Commission)  
Anne Marie Pepper (Poverty Truth Commission)  
Mike Penning MP (Parliamentary Under-Secretary of State for Transport)  
Stewart Stevenson (Minister for Transport, Infrastructure and Climate Change)

**CLERK TO THE COMMITTEE**

Fergus Cochrane

**LOCATION**

Committee Room 2

## Scottish Parliament

### Public Petitions Committee

*Tuesday 26 October 2010*

[The Convener *opened the meeting at 14:09*]

### Current Petitions

#### School Bus Safety (PE1098 and PE1223)

**The Convener (Rhona Brankin):** Good afternoon and welcome to the 15<sup>th</sup> meeting in 2010 of the Public Petitions Committee. I welcome Mike Penning MP, who has come here from Westminster. We are delighted to have you here—you are probably the first Westminster minister to come before the committee. We also welcome Stewart Stevenson—I am glad to see you in front of the committee again—Chief Constable Mike Giannasi and Chief Superintendent Charlie Common. Thank you all very much for attending.

Cathie Craigie has sent her apologies, as she has had to go home unwell. I ask everyone to ensure that all mobile phones and other mobile electronic devices are switched off.

The first item is consideration of current petitions, and we are considering two petitions together. PE1098, by Lynn Merrifield, calls on the Scottish Parliament to urge the Scottish Government to make provision for every school bus to be installed with three-point seat belts for every schoolchild passenger and to ensure that, as part of a local authority's consideration of best value in relation to the provision of school buses, proper regard is given to the safety needs of the children. PE1223, by Ron Beaty, calls on the Scottish Parliament to urge the Scottish Government to take all appropriate action, through amending guidance, contracts, agreements or legislation, to require local authorities to install on school buses proper safety signage and lights that are to be used only when necessary, when schoolchildren are on the bus, and to make overtaking a stationary school bus a criminal offence. I welcome Ron Beaty, who is in the public gallery.

We are making history today, with the first United Kingdom minister to attend the committee, and I am delighted to have you all here. At our meeting on 26 June, we agreed to invite the transport ministers from the Scottish and UK Governments as well as representatives from the Association of Chief Police Officers in Scotland and the Association of Chief Police Officers. Our intention was to bring all the witnesses here today, so that we could consider the issue in a useful

way, across the legislatures and the different police forces. We are glad that everybody is here today to see how we can move things forward. We are all agreed that the key issue is that, in future, the number of fatalities in this area should be drastically reduced. Let us hope that we can move forward today in a positive way, which is what we like to think that the committee is all about.

Would any of our witnesses like to make some brief opening remarks?

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** I very much welcome the composition of the panel, which I am sure will be helpful. I do not expect that you will hear fundamental differences of view between Mike Penning and me, as we have been working fairly effectively on the issue—although that will be for committee members to judge. We have seen some significant trials taking place in Aberdeenshire, from which we will receive evidence in the not-too-distant future. The Government is also developing a new school transport safety toolkit to ensure that there is better understanding among local government and operators of both the opportunities to improve safety and the legal framework in which they operate. The committee may want to return to that.

**Mike Penning MP (Parliamentary Under-Secretary of State for Transport):** It is a privilege to be here, in Scotland, representing the Government at Westminster. This is the second time that I have been here. In 1974, Her Majesty sent me to the Edinburgh tattoo when I was a junior guardsman, and it has been an interesting trip back.

I pay tribute to Mr Beaty, who is a dedicated man who works tirelessly not just for justice for his own family, but to make things better for other families. Without people such as Mr Beaty, legislation does not get changed. We live in a pluralistic society and need people who will put their heads above the parapet. Mr Beaty knows that he and I do not agree on everything, but one thing on which we agree—I think that I can speak on his behalf—is that we want to see fewer people injured and killed when they get on and off school buses or in any other part of the road safety agenda, which comes under my portfolio. As you know, the matter that the petitions deal with is not devolved. I hope that we can come on to how we can work together for the good of young people throughout the country.

14:15

**Chief Constable Mick Giannasi (Association of Chief Police Officers):** I am the chief constable of Gwent Police in south Wales and I lead for the Association of Chief Police Officers in

England and Wales on roads policing matters. You will not find a great deal of difference between the views of ACPO and those of ACPOS on the matter. Equally, you will not find a great deal of difference between the police service and the Government on the issues. For many years, we have worked together with a tripartite strategy to make our roads safer. The police service is as committed to road safety as the Government is. We are concerned to make our children as safe as they can possibly be while they use our roads.

I bring two perspectives. One is the England and Wales police service view, but I also bring an interesting view from Wales where, as you might be aware, a legislative competence order has been developed on the issue. Having read the documentation, I believe that there are lessons from Wales that you might be interested in. I am more than happy to share information on that if you wish.

**Chief Superintendent Charlie Common (Association of Chief Police Officers in Scotland):** I am here to represent ACPOS. I am chief superintendent with the local force—Lothian and Borders Police. In ACPOS, I have responsibility for speaking on casualty reduction. As members will know, in the area of casualty reduction, the eight Scottish forces are particularly interested in and active on child casualty numbers. We approach the issue on a partnership basis. We do not want to demonise the motoring public, providers of school transport or the many other partners who are involved in what is a huge challenge. One thing that would benefit us would be consistency among local authorities on what they require of school transport providers. We acknowledge potential difficulties with enforcement. We do not see enforcement as something that should interest only the eight Scottish police forces. We are interested in the subject and are delighted to take part.

**The Convener:** Thank you.

I welcome Alison McInnes, who is transport spokesperson for the Liberal Democrats. Sorry Alison, I did not notice you earlier—thank you for coming.

We will move to questions. I have the privilege of being convener, so I will start off. Mr Penning, what came out of the meeting that I believe you had with Keith Brown, the schools minister, or has that meeting not happened yet?

**Mike Penning:** Stewart Stevenson and I have met, and I met Mr Beaty this morning.

**The Convener:** Right. So there have been no discussions with the schools minister. Mr Stevenson, will you clarify what liaison there has been on the issue?

**Stewart Stevenson:** As the committee is aware, Keith Brown, the schools minister, wrote to Mike Penning in June, seeking to find out what could be done about legislative competence in relation to seat belts. We subsequently became aware of what has happened in Wales and how that competence has been given there. I have been discussing that this morning, wearing my transport minister's hat, with the minister from Westminster. It is clear that we can make progress. I invite Mike Penning to confirm that that is the case.

**Mike Penning:** I had conversations with the Scotland Office in Westminster and asked whether, when I was before the committee today, I could indicate that we could devolve powers on school transport if the Scottish Government wished to take competence on that. The understanding that I have from the Scotland Office and my department is that we are willing to talk to the Scottish Government about devolving powers specifically around school transport, should the Scottish Government formally request that.

**The Convener:** Would that be similar to what is happening in Wales?

**Mike Penning:** Yes, it would. In a moment, Mick Giannasi will probably give you more information on what is happening there. I have been a minister for only five and a half months, but I was surprised when I received documents saying that Wales was taking competence on the matter but that Scotland had not done so. That is for my predecessors to explain, but I see no logical reason for that situation. I asked my counterparts in the Scotland Office whether they had a problem with the idea. Road safety nationally is not a devolved issue, but school transport is an area in which there could be benefits to communities and lives could be saved if the Scottish Government wished to take that competence. I have not formally been asked for that yet, but if the Scottish Government wishes to do so, it should receive a positive response.

**Stewart Stevenson:** We have engaged with the subject previously, without getting any sense that such a request, if made, would have been accepted. The situation is different now, and I will certainly work with my colleague Keith Brown on the issue. We are now in a much better place.

**Bill Butler (Glasgow Anniesland) (Lab):** In your opening statement, you talked about how close the Scottish Government is to the point of issuing the safety toolkit to local authorities. How close are you, and what are the petitioners' views on the toolkit?

**Stewart Stevenson:** I will not seek to put words in the petitioners' mouths. We are reaching the conclusion of the development of the toolkit, and we have agreed to give Mr Beaty the opportunity

to review it before it is issued. We have sought to incorporate the information and views that Mr Beaty has given us, as he represents a substantial, UK-wide body of interest, not just Scottish interests. If he has any further useful comments, we will make sure that they, and his views, are reflected properly.

We are certainly looking to issue the toolkit within a few months.

**Bill Butler:** I am glad to hear that. However, you will be aware that, as recently as 29 September, Transport Scotland said in a letter that the toolkit would be issued in autumn 2010, so the timescale seems to have slipped to winter 2010. Why is that?

**Stewart Stevenson:** Today is a beautiful autumnal day.

**Bill Butler:** But two months from now, it will be December.

**Stewart Stevenson:** I said that the toolkit will be issued within a couple of months. I do not want to box Mr Beaty into a particular timescale until he has had the opportunity to see the toolkit. To be absolutely clear, I am not seeking to create a delay; the toolkit will come out at the earliest possible moment. It is important that it comes out in a form that properly reflects the concerns that have been expressed to the committee by Mr Beaty and others, and I will not set an artificial date for that. It is as urgent for me as I know it is for Mr Beaty and the committee.

**Bill Butler:** Are you content that sufficient priority has been afforded to the development of the toolkit by Transport Scotland?

**Stewart Stevenson:** I believe so. The team that is responsible for road safety has undertaken a great deal of useful work in recent times, and there has been wider interest from the other UK jurisdictions and beyond in the work that we have done on road safety. We have been very energetic on and engaged with the subject. I accept that there is always the temptation to say that something more could be added, but we are now at the point at which we are ready to issue the toolkit. As I said, it is important that Mr Beaty, who does this sort of thing pro bono and has other calls on his time, has the proper amount of time to consider the draft before it is issued.

**Bill Butler:** I take that on board, but given what you have said, can you confirm to the committee today that there is a commitment to issue the developed toolkit during the winter, before the beginning of 2011?

**Stewart Stevenson:** Yes.

**Bill Butler:** Thank you for that commitment.

**The Convener:** Thank you, minister. I am sure that you accept that the issue has been going on for quite a time now and that, during that time, there have been further accidents. We are all concerned about that.

**Anne McLaughlin (Glasgow) (SNP):** I am glad to see everyone here today. As I said at a previous meeting, I have been on the Public Petitions Committee for 18 months, and the issue has been going on since long before I arrived. I share the frustration of the petitioners. I will not repeat what I have said previously, but I think that we should get everyone in a room and lock the door until we have sorted things out. It is frustrating that the issue has been passed between local authorities, the Scottish Government, the British Government and the bus companies.

It is obviously very welcome that all local authorities will be given much better information in future, but we have 32 of them and many more bus operators. Who will monitor whether they use the information, and who will follow it up if they do not? Their having the information and reaching agreements is all very well, but what if they do not stick to them?

**Mike Penning:** With your permission, convener, I will elaborate on what I intend to do after I leave this meeting and return to Westminster. Some things can be done relatively quickly. As I read the papers, I was really surprised by some of the comments from local authorities, not just in Scotland but around the UK, about what they can and cannot do, because the legislation is specific on that. A minimum standard is required under UK law for the transportation of pupils, whether to and from school or to and from any other activity. Clearly, I need to send out guidance to local authorities once again and tell them in no uncertain terms what they are required to do. I will copy that guidance to the committee and to Mr Beaty, as well as to the minister, Stewart Stevenson.

There are areas on which we need to tighten up, one of which is signage. Some of the photographs and things that I have seen for myself show that there is confusion, complacency, ignorance or even unwillingness to apply the law when it comes to signage on vehicles. We know what happens if other drivers know that a vehicle is a school bus. We do not have the American yellow bus system, which perhaps we would all like, but we are where we are.

If we are to use retrosignage, which means that the reflective light is stored and then comes back out, it cannot be used behind glass, because of refraction, nor can it be used behind tinted glass; it has to be on the side of the vehicle that drivers can see, and it must be taken off when the vehicle

is not being used for school transport. To me, that is not rocket science; it is something that I can do straight away.

We need to enforce that, not only through local authorities but through parents, who have responsibilities, too—people power is being shown here today—and the police, who must take action when it is needed. We do not want to use the big stick all the time, but if companies continually ignore the fact that they should remove signage when the vehicle is not being used as a school bus, we will ensure that they do not ignore it any longer.

We can do that straight away before we hand over powers, if we are requested to do so, because it is a national issue. I am here before this committee today, but the issue applies around the country.

Even though we have a very good safety record in this country, one person injured or one life lost is one too many. We must ensure that we move forward. The signage issue that Mr Beaty raises in his petition is something that we can move on quite quickly.

**Anne McLaughlin:** So that is a commitment that you will be in charge of the overall monitoring and of ensuring that where things can be enforced, they will be enforced.

**Mike Penning:** I cannot monitor. My job is to be the legislator. The job of enforcing falls with my police colleagues and local authorities.

**Anne McLaughlin:** It is interesting that you said that parents should also have an input, because I have worked with schools in Glasgow where the children have turned into traffic wardens—under the guidance of their teachers, obviously. They are so upset and worried about the consequences of not just school buses but teachers parking on the zig-zag lines outside schools that they have turned into traffic wardens who monitor parking themselves.

**Mike Penning:** We have all dealt with the daily issue of parents or loved ones dropping off children at school and parking outside schools in our constituencies. Sometimes we have to use the big stick and send constables down to the schools, but we cannot do that every day. However, parents, guardians and loved ones have a moral responsibility for children. If they see the law being broken regularly, they should say something. They would not let their children's lives be put at risk in their own home or anywhere else. The fact that they have handed over responsibility to a school or a local education authority does not mean that they can abdicate responsibility for doing what they need to do.

14:30

A rather surprising fact that has emerged as a result of Mr Beaty's petition is that legislation on signs for school buses does not prescribe the size of the sign—it prescribes only the minimum size. If we make the sign bigger, it becomes more obvious. Had it not been for the work that has been undertaken, that would probably never have emerged, because all the signs were the same and everybody thought that that was their size. Aberdeenshire Council has shown the way in putting much bigger signs on buses. It has taken the simple attitude that if it could not find anything that said it could not do that, it would do it. That was an excellent initiative and a positive engagement in safety.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** My question is about the point that Mr Penning just made about the size of reflective notices. The notice displayed on a minibus carrying schoolchildren is the same size as that on a 100-seater double decker. Mr Stevenson, are discussions taking place to alter that regulation and ensure that the signs on the bigger vehicles are more appropriate to the size of the vehicle?

**Stewart Stevenson:** It is worth saying that the power to change the regulations lies with my colleague on my right, Mr Penning, rather than with me. However, it is important that the process is flushed out and that there is no prohibition on making the sign appropriate to the vehicle. We are trying to make sure that local authorities are aware of the opportunities that they have to contribute to and enhance safety. However, if the committee felt that we should be more prescriptive, that might have to be looked at more carefully. If we were to prescribe the size of signage according to different vehicle sizes, there might be a risk of unintended side effects. However, I am sure that we all accept the principle that Mr Munro enunciates: we should have appropriate signage for vehicles.

**Mike Penning:** It is a matter for Westminster, but I am conscious that we need to look at the evidence base. It is easy to say, "We think the sign should be bigger for one vehicle than for another." We in Westminster will look at some of the work that has been going on in Aberdeenshire. Nothing is fixed in statute—well, it is currently fixed, but we can move it.

Minibus legislation is slightly different from that for coaches and double-decker buses, simply because of seat belt legislation. The key question is whether the legislation is fit for purpose and does the job that it is meant to do. If we find that the signage is not of a size that gives other drivers the opportunity to understand who is likely to be on the bus, we will look at that.



The other point is that we must not sanitise the issue. If the signs are to work, they must be on buses that are moving children; they must not be just left on buses that go on to the commercial network for the rest of the day. As happens in my constituency, some school buses do the school trip and then augment the local bus network for the rest of the day until they return to school later. In my part of the world, the signs come off the buses after the school run, probably because I am the minister and, as you can imagine, I would not be happy if they did not.

**John Farquhar Munro:** Perhaps the police should also pick up the point that when signs are on display on the vehicle, they should not obscure or impede the driver's vision. I am sure that that could be taken care of. On some vehicles that are used for school transport, there are different logos and signs on the back and sometimes the front of the vehicle, which might diminish the effectiveness of any reflective sign that indicates that the vehicle is carrying schoolchildren.

**Mike Penning:** I have already said that I do not think that we should allow such signs to be on the inside of the glass—and I will change the rules and regulations around that—simply because that would not do the job. As you say, it could obscure the driver's vision of the road. The reflective nature of the sign would be affected by the glass or perspex on the vehicle. As I said, we will look at what is going on in Aberdeenshire. The trial that has been undertaken there shows that enlarging the signs works. We will see whether we can move things forward.

**John Farquhar Munro:** Thank you.

**Chief Superintendent Common:** At the moment, if police officers witness anything that they feel impedes a driver in going about his driving duties, they do something about it. I also echo the comment that was made earlier about the role of the local authority. If a local authority has entered into a contract with a transport provider, we would ask what it is doing to police that contract itself. If the contract requires signage, the customer, first and foremost, has a role in ensuring that the provider complies with their wishes.

Thereafter, as we do at the moment, we would enter into some joint work with the local authority. There is obviously a practical difficulty in enforcing things that would take school buses off the roads and leave groups of schoolchildren standing at the side of the road. We currently have days of action, both north and south of the border, on which we work alongside local authorities, and we will continue to take that type of commonsense approach.

**Chief Constable Giannasi:** I echo the comments that have been made. The legislation is fairly broad and permissive, and local authorities could go much further in specifying what signage they would like to see on vehicles. As Mr Penning said, the legislation is about minimal signing, and local authorities could go much further. They could add hazard warning lights or make existing hazard warning lights bigger—they could even create coloured signs. Provided that they comply with the road vehicles lighting regulations, there is little restriction on what can be done.

In our view, enforcement has a part to play but it is much more about partnership and voluntarily finding the right conditions based on evidence, and then agreeing with local authorities that they will insist on those conditions being met as part of the contract. The role of the police is really to ensure that there is enforcement that substantiates that voluntary contract. As my colleague said, we run a national operation in England, Wales and Scotland that is called operation coachman. In the past two years, about 4,000 vehicles have been stopped and checked so that compliance with the legislation could be confirmed. We see a high level of non-compliance. This year, for example, some sort of illegality has been involved in 31 per cent of the 2,311 buses, minibuses or coaches that have been stopped. That has not necessarily involved signage—it could have been to do with insurance or tyres.

There is a danger that overregulating and introducing too much legislation in a very competitive industry forces people who are on the edges of their commercial ability into cutting corners in places where they should not do that. We have seen the same in the haulage industry, in which reputable companies find it difficult to compete because of the legislation. My concern is that overregulation forces people into cutting the wrong corners, which may not be as visible as the signage.

There needs to be a balance and the requirement should be based on evidence. Our preference is for voluntary compliance supported by enforcement where that is necessary.

**John Wilson (Central Scotland) (SNP):** Good afternoon, gentlemen. In our previous discussions, we have examined the fitting of seat belts on school transport. Does Stewart Stevenson know of any local authorities in Scotland that use buses or coaches that do not have any form of seat belt fitted in school transport contracts?

**Stewart Stevenson:** I am not sure that I know of any that do not have seat belts. Moray Council now has a universal requirement for seat belts. I add a note of caution, however, as seat belts can be two point or three point. If everybody had two-point seat belts, that would be significant.

However, there is then the issue of ensuring that the seat belts are used. The committee—like other committees—has heard me say before that I regularly find myself the only person on a bus who is wearing a seat belt where those are fitted. We must ensure that people use them. We are a substantial way away from having the desired level of seat belt fitting and even further away from the level of seat belt usage that we want, which would increase safety substantially.

**John Wilson:** Am I right in thinking that at the moment there is no obligation on local authorities to ensure that all bus operators that operate school transport contracts have two or three-point seat belts fitted?

**Stewart Stevenson:** That is correct. Clearly, the risks associated with the use of coaches, buses, minibuses and various forms of school transport vary depending on whether we are talking about urban or rural areas, high-speed or low-speed roads and so on. In general, it is appropriate for local authorities to make decisions that are appropriate to their needs, but what has happened in Moray certainly shows that it is possible to take a position different from the one that prevails. We will continue to work on this matter with the Convention of Scottish Local Authorities, which is the co-ordinating body for local authorities, and the Society of Local Authority Chief Executives and Senior Managers, which represents the senior people in local authorities, but the key thing is to ensure that authorities are aware of what they can do, because there is an information gap.

**John Wilson:** Does anyone else have any comments on this issue?

**Mike Penning:** Buses that transport children to and from school must, by law, be fitted with lap belts. Following the minister's comments, I point out that any grey areas in the legislation with regard to what local authorities can or cannot do will be alleviated in literally a few weeks' time when I write to them—and to the committee—telling them the exact situation to ensure that they cannot in any shape or form say that they have not been informed, that they are not sure of the current position or whatever. The facts will be there in black and white. Of course, it will be for others, particularly parents, to follow up the issue. After all, it is very important that they are aware of and understand the current situation. As I say, however, lap belts will be the minimum required on a bus going to and from school.

**Chief Inspector Common:** In the likes of Edinburgh, large numbers of schoolchildren travel to school on service buses. That is a different issue, but the safety of those children cannot be overlooked.

**Chief Constable Giannasi:** We might be able to learn some interesting lessons from what has happened in Wales, where there have been similar emotive accidents involving children on school transport. For example, in 2005, a young child was killed in a minibus in my own area, which led to a campaign very similar to Mr Beaty's. In 2009, the Welsh Assembly Government decided to make a legislative competence order to deal with the matter instead of issuing a voluntary code and has now introduced the Proposed Safety on Learner Transport (Wales) Measure, which addresses precisely the issues that the committee is considering.

Under the measure, local authorities will be required to provide either two or three-point seat belts in all transport taking schoolchildren to and from school and ensure that closed circuit television is fitted in every vehicle used in such circumstances and that there is adult supervision of the children on the vehicle. As has been quite rightly pointed out, it is one thing to fit seat belts; it is a very different thing to encourage people to wear them. Although the law requires anyone over 14 to wear seat belts on passenger vehicles, the same does not apply on public transport, and the Welsh Assembly Government has introduced a voluntary behavioural code to support the composite framework, which has been in place since January 2010. The code, which covers five to 19-year-olds using learner transport, gives schools the power to take disciplinary action against those who contravene the code of conduct on buses to and from school and sets a series of standards. Indeed, picking up a comment made by one of your colleagues, I should say that it contains an interactive element in which children and parents have been involved in setting and keeping to those standards.

The measure has five elements: first, the specification of vehicles that must be used—and although signage is not included, it could be; secondly, the requirement to fit CCTV; thirdly, the requirement to carry out risk assessments of all school transport; fourthly, training for drivers; and fifthly, details of supervision on buses. It will be in place by August 2011 and is supported by the recommendation that the minimum requirement for children in primary and junior schools be three-point seat belts and, for secondary school children two-point seat belts. I repeat, however, that that is a recommendation, not a legislative requirement.

The National Assembly for Wales is geared up to pass that measure, which we welcome, because it will make what was a voluntary code compulsory. We will of course continue to enforce the position. Operation coachman will continue alongside the competence order, to ensure that operators comply with the legislation.

14:45

**John Wilson:** I have a follow-up question for the chief constable and the chief superintendent. What is the police view on school transport buses using hazard flashing lights when dropping off and picking up schoolchildren at designated pick-up points?

**Chief Constable Giannasi:** When a bus has stopped and passengers are alighting from it, legislation permits it to use its hazard warning lights. Legislation also enables buses to attach a second set of lights, whose size is not restricted—the lights can be as big as people wish. That should be within the code. When drivers are trained—as they will be in Wales—they should be trained to use such lights in those circumstances. Of course, as the minister says, we must ensure that other motorists recognise that new and unique event as a risk. If we do not enforce arrangements in that way, they will be less impactful.

**Chief Superintendent Common:** I echo those comments. One of our concerns is about the disincentive from the additional cost of anything that is recommended. All vehicles are fitted with hazard warning lights, so it makes sense to use them.

Speaking as an experienced officer rather than ACPOS spokesman, I am attracted to the idea of having a second adult on board—not on minibus-sized vehicles, but on coach-sized vehicles and larger buses. While the vehicle is in motion, it is unreasonable to expect the driver to concentrate on driving and police what is going on in the coach. I would be in favour of anything that we could do about that.

**Stewart Stevenson:** There is value in using flashers and in taking the opportunity to fit additional flashers. However, we have research that suggests that when most drivers see a vehicle—even a bus—with flashers going, they believe that the vehicle has broken down. The wider issue is ensuring that drivers consider what they are being presented with.

Particularly in the north and south-west of Scotland, a further issue is the use of flashing lights on the road at level-crossings, where it is clear that drivers are confused about the flashing and alternating red lights. As that is not the steady red light that people associate with a signal that they must stop, people think that it means that they should prepare to stop.

A wider issue is the use of warning lights on the road and how drivers interact with and interpret what they mean. We must be slightly cautious in imagining that we have completed the job when we encourage drivers of school buses simply to put on the flashers. That would be useful, because it would indicate an abnormal situation to other

drivers, but the evidence on whether those drivers work out what is abnormal is a little uncertain—I see our police colleagues nodding at that. We need to be slightly cautious.

**John Wilson:** Does Mr Penning have views on what he has heard from the other witnesses about the use of flashing lights on school transport vehicles? Could he or his department do anything to highlight the situation that they have described?

**Mike Penning:** Absolutely. As I said, I was surprised by the lack of knowledge among some—but not all—local authorities about the powers that were available, should they wish to use them. Drivers have the power now not only to use the existing flashing hazard lights on their vehicles but to augment them with other lights, provided that they are within the road traffic acts—we do not put red lights on the front, for obvious reasons.

I hope that, through the guidance that we will put out as soon as possible, we can start to break down some of the myths about what can and cannot be done. I talked to Mr Beaty earlier and have read his correspondence. It is worrying that local authorities that he contacted said, “We can’t do that.” Actually, they can. That is worrying because people in those authorities are in charge of our children. Both my girls went to school on a school transport bus. As a new minister, perhaps I am slightly naive, but I would have thought that they would have known. However, they will know.

**Nanette Milne (North East Scotland) (Con):** I want to follow up on the issue of flashing lights. I do not know whether you have received any feedback from Northern Ireland, but I gather that the technical specifications for school buses that have been issued by the Northern Ireland Department of Environment say that flashing warning lights must be activated while children are getting on or off buses and for between four and eight seconds after the bus door is closed. Is that working? Would such an approach have merit here?

**Mike Penning:** I will get feedback on that, as it obviously comes within my competence, but I have not yet received back any information on it.

**Nanette Milne:** I have no idea how long that has been the position for, but it would be worth following it up.

**Mike Penning:** It is a bit early to say something about that, but that is where Northern Ireland has gone. We will know better soon.

**The Convener:** We have a copy of the Northern Ireland Department of Environment’s technical specification requirements for warning signs and lights on school buses. I do not know whether Fergus Cochrane wants to say something about them. It is interesting to hear about the different

situations in Wales and Northern Ireland. That is one reason why we all needed to get together around the table. Often, we simply do not know what each other is doing.

**Mike Penning:** Northern Ireland has devolved power to deal with this competence. It is interesting that Wales has gone down a slightly different avenue, although its approach still fits within the national road safety framework, which sits within my ministerial remit. Should the Scottish Government come to me with a request, we will negotiate with it how to progress matters. I emphasise that powers are being used in Northern Ireland that exist now for any local authority in the country. To be fair, the only difference is in the restriction on flashing light times. I think that there are times in Northern Ireland. That is a local matter, and such an approach can still be taken elsewhere in the UK. I think that Northern Ireland is the only place where that is part of the competence and where times have been written in.

**The Convener:** It might be useful to get comments on the guidelines and on what happens in Northern Ireland, on what is being done in Wales, and on what is being thought about in England.

**Mike Penning:** Perhaps I could write to the committee to confirm those things.

**The Convener:** Thanks very much. It would be useful to get feedback on that.

I picked up that there is concern about difficulties in areas in which normal service buses are being used. How is that got round in talking about a mandatory set-up in Wales?

**Chief Constable Giannasi:** That is still an issue that is being discussed. I understand that the original legislative competence order did not include the use of service buses for school trips during the day and that it purely covered trips to and from school. That is not the same issue, but it is a similar issue. A service bus could be used during a school trip during the day, and it would not need seat belts and would not come within the legislative competence order. A campaigner has challenged the order in the consultation phase, and the matter is now being reconsidered. As recently as a week ago, there was a debate on the issue in the Welsh Assembly. There is an on-going discussion, and there is a question about whether the legislative competence order should be extended specifically to include service buses that are used during the day.

The issue of service buses more generally is challenging. When the seat belt legislation was being designed, it was decided for pragmatic reasons that service buses could not feasibly be subject to it because of the short journeys and the

interactions between the passengers in them. For those reasons, service buses are not required to have seat belts. That is a complication. In Wales, only around a third of schoolchildren travel to school using organised school transport; the rest go by other means or use service buses. Therefore, we are dealing with quite a significant risk, but it is not the whole risk. There are other issues that are far more complicated than transport to and from school.

**Nigel Don (North East Scotland) (SNP):** Good afternoon, gentlemen. I welcome Mr Penning, in particular. I am one of those who really wanted to see you here. That is not to suggest any unwillingness on your part to come; it is just that we have had problems in the past. At a round-table discussion some time ago, we recognised that it was the interaction between the two Parliaments and the local authorities that caused many of our problems, so it is wonderful to see you here.

I venture to suggest that the very fact that you are here has clarified some thinking. I had intended to ask you whether you would devolve competence, but you have forestalled me. That is wonderful—thank you very much. It gives me the opportunity to ask Stewart Stevenson whether he will ask for that to happen; he may wish to reflect on that. We have all recognised that the different legislatures and the different competences have been a problem. It would be enormously helpful if the relevant responsibility could be devolved so that we have a slightly smaller number of ports of call. It is good to see how well the two Governments are working together. That is welcome.

Most of the technical questions that I wanted to ask have been covered by a group of people who obviously know the subject very well. There is just one remaining issue that I am aware of, which is paintwork. Are there regulations that say that signs must be reflective? If there are not, should there be?

**Mike Penning:** I apologise if I sound like an anorak, but I have read a vast amount on the subject over the past few weeks. The committee might not know that I was a fireman for some 11 years and drove rescue tenders to road traffic incidents, so reflective fire engines are something that I grew up with.

I apologise for using technical terminology, but there is something called retroreflection. Signs on school buses should be retroreflective, which means that, instead of just reflecting light straight back as a mirror would do, they should absorb the light and then throw it back. If they are damaged or if, as I mentioned earlier, they are behind glass or plastic, or are not in a particularly good condition, that will affect their ability to reflect light,

particularly headlights. There are regulations, which are very strict and should be enforced as strongly as possible because, these days, unlike when we were children—I apologise if you are slightly younger than I am—the technology is there. Signs should no longer give just a straight reflection. It was fascinating for me to see some of the research and development work that is being done on how a sign can absorb light and then spring it back out. To me, as a non-scientist, that is quite complicated. Retroreflection works, but if such a sign is put behind glass or Perspex, it will be affected by the reflective nature of the surface.

**The Convener:** I do not know whether Stewart Stevenson wants to take up the gauntlet that was thrown down by Mr Don.

**Stewart Stevenson:** I was asked a specific question that only I could answer, which I think was whether I would ask for competence to be devolved. Just for clarity, it would be my colleague Keith Brown who would be likely to do that. He and I will have to have that discussion and to co-ordinate any action, because he is the minister who has been writing to Mike Penning on the subject.

In the discussion that Mike and I had before coming to the meeting, it became apparent that that opportunity would be available. Alas, I did not have the opportunity to speak to Mr Brown in advance of the meeting, so I cannot speak on his behalf, but the committee can be assured that we will have that conversation as soon as possible, which I would expect to be no later than tomorrow evening.

I have one general observation to make. If my memory serves me correctly, some European work has been done on daylight running with headlights on, which I think will probably be reflected in UK legislation in due course; Mike Penning might say more on that. Regardless of whether we are talking about stored light or simple mirror technology, the reflective nature of a sign depends on how much light falls on it. I have always been a believer in vehicles having their front lights on, but that is a non-professional view—it is a driver's view. There are some further relevant aspects of the issue that may emerge later.

15:00

**Mike Penning:** I apologise if the honour and privilege of appearing before the committee is not something that my predecessors have taken advantage of, but I am not responsible for previous ministers. I was invited and I am here. I think that Danny Alexander has given evidence to a committee as well, so I am the second Westminster minister to give evidence at

Holyrood. That is right and proper. Sometimes it is difficult; do not get me wrong. I am due to leave here, stay overnight in Lancaster, then go to Merseyside, fly back to London and go to St Petersburg. It is difficult but, when it is possible, it is right and proper to come. I had a conversation with the Prime Minister and I know that he thinks that too.

There is an issue with the daylight running of lights. I am a motorcyclist—I am lucky enough to hold nearly all the UK driving licences, courtesy of Her Majesty's armed forces, I must add—and I always have my motorbike headlights on because it makes other drivers more aware that I am around. We still have a big problem with motorcycles, although that is a separate issue. One of the few areas in which the number of fatalities is going up is motorcycles; the number of fatalities rose by 4 per cent last year when the use of motorcycles rose by only 2 per cent, so the figure is going in the wrong direction.

I have taken the opportunity to talk to some of my European counterparts about this. If we run with headlights on all the time, there is an emissions issue. Vehicles do not run as efficiently with their headlights on. I know that Saabs and Volvos have always done it, but if all vehicles run with their headlights on, the engine is under more strain and the CO<sub>2</sub> emissions are worse. It is not just as simple as saying that we should switch on all the lights, because that puts a bigger burden on car engines.

**Nigel Don:** As a lifelong Saab and Volvo driver, I understand the point, but people have always been able to see me coming.

**Mike Penning:** Yes, or hear you, in the case of a Saab.

**Chief Constable Giannasi:** My transport plans are, unfortunately, less sophisticated than the minister's. I came from Stoke and I am going back to Newport.

I discovered two things during my research. Some interesting research is being done in Sweden on making the bus stop the source of attracting the driver's attention. In that system, schoolchildren carry some sort of radio-activated device in their satchels so that when they get off the bus, the bus stop illuminates and has signs on it that attract the driver's attention. That is interesting research; I do not think that it has been fully evaluated yet, but it is worth watching.

I will just offer the second idea. I talked about operation coachman in Wales, which is the enforcement initiative. I guess that it is very similar to operations that are being carried out in England and Scotland. The operations are multi-agency, so local authorities, trading standards and the Vehicle and Operator Services Agency in England and its

equivalent in Scotland are involved. We also involve pressure groups and campaigners, such as the BUSK Wales group, which has a similar function to Mr Beaty's group. When those groups come along, it heightens enthusiasm and the commitment to robust enforcement. The committee might want to consider that in its development of ideas and objectives, as involving people who have a personal passion delivers better results.

**The Convener:** Thank you.

**Stewart Stevenson:** Would it be useful if I said something about something that has just been said? As members know, there has been a see me pilot in Aberdeenshire, which I think might have used the technology to which Chief Constable Giannasi referred. We have not yet received the evaluation. Some positives have come out of it, but it is not yet clear cut that it will deliver the best value. We will make sure that the committee is made aware of that.

**Robin Harper (Lothians) (Green):** First, I apologise for being late to the committee meeting this afternoon. I have been moving considerably slower than usual between commitments; I sustained a sports injury yesterday because I was overcompetitive at a game of badminton.

I want to pick up on Chief Superintendent Common's comment about a second person on the bus. As a teacher who drove minibuses full of schoolchildren around the countryside for more than two decades, I thoroughly sympathise with that point. When there was another teacher on the bus, there was never any problem. However, on one occasion, when there was no other teacher on the bus, and one child was out of control at the back, in my judgment, he was placing everyone's life at risk, and I had no alternative but to stop, throw him off, and give him his bus fare back from where we were. Obviously, that is not an option for many school bus drivers. That is why I personally think that it should be mandatory to have a second person on a bus.

My question is for the police representatives. I have a suspicion that, in advance of the meeting, you had a wish list of things that you would have liked to have heard from the ministers. As you have the advantage of having two ministers beside you, is there anything remaining that you would like to hear from them?

**Chief Constable Giannasi:** Not on the particular subject that we are discussing. There are many other subjects on which we have discussions, but there is clear common ground on the issues that we are discussing.

**Chief Superintendent Common:** I was careful not to say that there should be a second teacher on buses. If there is to be a second adult on all the

buses, the challenge is about who might take on that role. I am alert to the pressure on the timetable. That is one for the future. From the Scottish police perspective, we are looking for consistency. As I said at the outset, we are looking to work with motorists, rather than against them.

**Alison McInnes (North East Scotland) (LD):**

Thank you for allowing me to attend today, convener. I cannot usually attend the committee's meetings, as I have Transport, Infrastructure and Climate Change Committee meetings on a Tuesday. However, as a member for North East Scotland, I have taken a keen interest in the two petitions.

I have two questions. The first is about seat belts, which need to fit to work properly. I am conscious of the recent legislation on booster seats in private cars. Do any issues arise from that need to have properly fitted seat belts, especially for primary school children travelling on buses?

**Mike Penning:** You have touched on what is probably the most difficult issue, especially the call for three-point seat belts. The reason why we have booster seats and such things for young people in cars is that it is difficult to fit three-point seat belts to young people and it can be dangerous if they are improperly fitted. Apart from the issue of anchoring three-point seat belts in vehicles that were not designed to have them, one of my biggest concerns about having a requirement for three-point seat belts rather than lap belts is about the dangers of an ill-fitting seat belt. As a fireman, I have seen the sort of injuries that sadly can occur as a result of an ill-fitting three-point seat belt that has been used with the best intentions. That will live with me for the rest of my life, and I am sure that the two policemen who are here have seen that too. An ill-fitting seat belt is a very dangerous thing.

There are real issues. I cannot imagine that, given the peer pressure on school buses, booster seats will be used. Kids are difficult. The best approach at the moment is to use lap belts. There is a reason why we have taken that position. Technology has not moved forward much, although it is moving. For example, the straps can move and can be dropped down. In cars, for instance, the straps on the B-post can normally be dropped down. However, that cannot be done on any bus that I know of. It is a difficult issue.

**Stewart Stevenson:** I have nothing to add.

**Alison McInnes:** My other question relates to the toolkit that Mr Stevenson talked about drawing up. What is the content of that? I am mindful of the most recent school bus crash, which was in the Mearns in the north-east of Scotland. Have you given any consideration to further guidance on the

use of double deckers on rural routes? Will that be tackled in the toolkit?

**Stewart Stevenson:** The issue of double deckers is complex. They must meet stability requirements to be allowed on the road in the first place, so we should accept that double deckers are a safe and adequate way of travelling. In relation to school transport, the issue is more likely to be about whether children can be supervised adequately, particularly on the upper deck, where they are well out of the sight and hearing of the driver, who is perhaps the sole adult on the bus. That is certainly an issue. I have not yet seen the draft of the safety toolkit, so forgive me if I cannot give you a specific answer. However, I can make sure that I give the committee an answer during the next week and copy you into that.

**Alison McInnes:** Thanks, minister.

**Mike Penning:** Speaking as an MP with a London overspill town and a beautiful rural area in the Chilterns in my constituency, I would say that capacity is the issue. Every one of the double-decker buses that come into the four schools in my constituency that have bussing in is packed, so cost implications would arise from having to have twice the number of vehicles. I understand the consequences of the particular crash that you have mentioned—although I have not seen the report—but it is very rare for a double-decker bus to tip over. It all started with the Routemaster buses, which are coming back to London—we will have a new Routemaster quite soon. They are very difficult to tip. I do not know what the circumstances of the crash were, but the cost implications for the LEA in my constituency would be astronomical if we had to move away from using double deckers.

**The Convener:** I thank the witnesses for coming, especially Mr Penning and Chief Constable Giannasi. I know that you have travelled a considerable distance—and that you have further to go, Mr Penning.

I ask committee members for their views on where we go with the petition from here.

**Bill Butler:** This has been a very useful evidence session, and I echo your thanks, convener, to all the witnesses on the panel.

I think that we should keep the petition open. It would be useful for the committee to be kept up to date with progress regarding possible representations by the Scottish Government—whether in the shape of Mr Stevenson or Keith Brown or both—so as to devolve responsibility in this area, as has happened in Wales.

Secondly, Mr Stevenson made a commitment that the toolkit—the guidance—would be in place before the end of this year. I welcome that. We

should be kept up to speed on how the guidance is working.

I forgot to make this point earlier, but I am sure that Mr Stevenson will be more than willing to respond to it. We need to have some idea of the effectiveness of the toolkit or guidance. I would therefore like monitoring to be done in that regard. I know that signage is part of the toolkit and the guidance, but we should, if possible, assess how the guidance is working out before the end of this session. If things are not working out with respect to signage, I would like the Government to say whether it might consider prescription in this area, rather than guidance.

It would be helpful for the committee to explore those issues. Progress is being made, and I am sure that my colleagues will welcome that, but we have to keep the situation under consideration.

**The Convener:** Presumably, Mr Penning will be able to keep us updated with regard to the changes to signage that are currently—

**Mike Penning:** I intend to change the position nationally to make it much better focused. Of course, if the powers are devolved, you will be able to take the matter further than I intend to do—regarding the size of the signage, anyway, although the whole matter of moving it outside the cab and on to the front and back of the vehicles correctly is something that we will deal with nationally.

**Nanette Milne:** It would also be helpful if Stewart Stevenson could apprise us of the outcome of the pilot on school bus stops in Aberdeenshire—when he knows about it.

**Stewart Stevenson:** I am happy to do that. You should understand that it is an Aberdeenshire Council pilot, which we are part of, so I will rely on colleagues in the council. There is certainly no intention for the output of that pilot to be secret—that is for sure.

15:15

**John Wilson:** I support Bill Butler's suggestion that we continue with the petition. I also wish to ask Mr Stevenson whether he could return to the committee at the earliest opportunity to fill us in on the discussions that he holds with Keith Brown, the education minister, on the competence of the Scottish Government in relation to school transport, so that we can deal with the issue as a committee, on behalf of the petitioner. It would be useful to know what the Government's view on that is at an early opportunity.

**Stewart Stevenson:** I am happy to ensure that the committee is made aware of the results of the discussions that take place.

**Bill Butler:** We heard from witnesses today about developments in Wales—I think that Chief Constable Giannasi referred to them. My recollection is that the Welsh Assembly Government will require seat belts to be fitted and CCTV to be installed. Could the Scottish Government consider the Welsh model and see how it is rolled out? Its effectiveness could be considered, and some initial thoughts could be given as to whether such innovations should be considered in Scotland, in the spirit of joined-together devolution.

**The Convener:** I am conscious that we seem to be opening up the questions again. I ask the minister to deal with that point quickly, if he can. The committee would want to contact the Welsh Assembly Government and ask it for some information, as well as its views on how the scheme is progressing. It would be useful to get further information from the police, too.

**Stewart Stevenson:** I am happy to respond in the way that Bill Butler suggests. I would rather copy than innovate—it is cheaper, and we know what the likely outcome is.

**The Convener:** I am conscious that we have not had details about operation coachman—we could perhaps get some information about it.

Comment was made about work that is being done in Sweden.

**Chief Constable Giannasi:** That was the same issue of interactive bus stops to which the minister referred. Charlie Common and I could get together to provide you with details of operation coachman.

**The Convener:** That would be very helpful—thank you very much.

15:17

*Meeting suspended.*

15:21

*On resuming—*

## **New Petitions**

### **Kinship Care (Children's Needs) (PE1365)**

**The Convener:** Item 2 on the agenda is consideration of new petitions. There are six new petitions to consider and we will take evidence on the first one.

PE1365, by Martin Johnstone, on behalf of the Poverty Truth Commission, calls on the Scottish Parliament to urge the Scottish Government to attend a meeting with kinship carers, hosted by the Scottish Human Rights Commission and the Poverty Truth Commission, to work on providing adequate financial and other support for kinship care children and on giving kinship care children an equal chance to foster care children, to urge the United Kingdom Government and COSLA to attend that meeting, and to urge the Scottish Government to include kinship carers in future detailed discussions on matters that affect them to maximise the effectiveness of new policies and legislation.

I welcome Martin Johnstone, Jessie Harvey and Anne Marie Pepper to the committee. I also welcome Bob Doris MSP to the committee. I invite Mr Johnstone to make an opening statement of no more than three minutes.

**Martin Johnstone (Poverty Truth Commission):** Thank you, convener. I hope to speak for less than three minutes and I hope that Jessie Harvey and Anne Marie Pepper will also contribute.

I will say a tiny bit about the Poverty Truth Commission, which was launched in March 2009 and brings together two groups of people. One group is key policy makers, decision makers and civic leaders in Scotland: Jim Wallace, Alex Neil and Johann Lamont are included among our commissioners. The other group is people who understand poverty from the inside and struggle with it day by day. Over the past 18 months, they have been working together on a number of issues.

One crucial issue that we identified from the outset was kinship care. According to the latest figures from Citizens Advice Scotland, approximately 10,300 children are in kinship care in Scotland.

One principle of the commission is that we do not want those who exercise power and influence to be the only voices that are heard. We always want the experiences of people who really know about the issues to be heard even more. At this



point I hand over to Jessie Harvey, who is herself a kinship carer, to give the committee a brief insight into some of her experiences.

**Jessie Harvey (Poverty Truth Commission):**

Thank you for giving me this opportunity to speak. I am here on behalf of the four main Glasgow groups, the kinship carers and the children. We have to bring to your attention the fact that a high percentage of the children are badly damaged. We are left with very little support. As far as I am aware, we are saving the Government £5 million a year. We cannot keep sweeping the issue under the carpet. There are rights for other children but no rights for our grandchildren whose parents are addicts, have mental health problems or have died. We need to start acknowledging these children.

Martin said there are 10,000 children in kinship care. I am saying that there are 13,500. We cannot have all those children in elderly people's care—with grans or extended family—and not get that addressed. We are asking for the three main parties to get round the table. We are the people with the knowledge here today. We live this life 24 hours a day, and we are asking you to consider the plight of these children. Take into consideration the fact that we have absolutely no input from psychological services, nursing services or respite care. We need to be catered for on the same wavelength as foster carers.

We are asking for some consideration. These wee children did not ask to be born into these situations. Everybody sitting here should know that this is going to be Scotland's future, so sit up and take a wee bit of notice today. Thank you.

**Martin Johnstone:** Anne Marie is one of the commissioners who represent the Frank Buttle Trust.

**Anne Marie Peffer (Poverty Truth Commission):** The Frank Buttle Trust is a UK-wide charity that makes grants for essential items to families where the children are experiencing exceptional difficulties. I manage the trust for Scotland. I take applications from kinship care families all over the country who are struggling to obtain basic items such as washing machines, beds and bedding, and clothing for children. I read again and again about families who get a chap on the door in the middle of the night and are asked to take on the care of young grandchildren with whom they often have not had a previous relationship. There is no start-up grant and no consistent financial support. The families I help receive anything from nothing at all to £40 a week to £125 a week. There is no rhyme or reason to the support that is given.

The problem here is the fallout from the tragic years of addiction—the tragic generation that has

already been lost to drug addiction. These are the children of those people. Part of the solution to that problem, which is everyone's problem, is kinship carers. They are a ready-made resource. They provide in every way for these children, yet the children themselves receive little support compared with children who are accommodated. We ask that people get together and invest in this extremely valuable resource. Do not let it go under, because the pressure at the moment is enormous.

**Martin Johnstone:** Part of our experience over the past 18 months is that everyone whom kinship carers and the commission have spoken to has acknowledged that we have a problem. However, when we speak to local authorities, they tend to say that the problem rests with the Scottish Government or the UK Government. When we speak to the UK Government, it says that the problem rests with the Scottish Government or local authorities. It has to be said that when we speak to the Scottish Government, it says that the problem rests with the UK Government or local authorities. It seems to me that we have already had that debate today.

We need to find a way to bring the parties into the room together, and not just those three groups. We believe passionately in the need for kinship carers also to be in the room when those conversations take place, to ensure that the conversation remains honest and that we can see the real progress that is required.

15:30

**The Convener:** Bob Doris, you have one minute.

**Bob Doris (Glasgow) (SNP):** I will not waste time but will get straight on with it. I am delighted to be here. I have known Jessie Harvey for many years through kinship care issues, and I have great respect not only for the Glasgow organisations but for such organisations throughout Scotland. I will focus on the second part of the petition, which urges the Scottish and UK Governments and COSLA to get around the table and talk constructively about things, as I know they can. For example, the Scottish Government has managed to get some concessions from the UK Government in relation to council tax discounts and housing benefit for kinship carers. There have been modest successes, but they are the tip of the iceberg in terms of what we can achieve.

Parties can work together to address the issues—this is the only time that I will mention party politics. Glasgow's Labour-led council did not pay anything to kinship carers, so I met the council to discuss the matter along with other councillors

on a cross-party basis, and the council is now paying £40 a week to kinship carers. That is still not enough, but it is something. That is an example of how, when different people at different levels of government and from different parties get together, they can achieve things. The only reason for my mentioning that is the fact that the second part of the petition is about finding a structured way—this organisation would be well placed to provide that focus—to get all the different tiers of government together to push things forward.

I believe that there has been progress, but it is not enough and we must push on. I am delighted that the petition is here to make that happen.

**The Convener:** I am sure that, like me, other members will have had considerable contact with kinship carers in their constituencies. I thank you for bringing to the Parliament a petition on an issue that we are all concerned about and on which we are keen to make progress.

Do committee members have suggestions as to how they want to proceed with the petition?

**Nanette Milne:** I have a question first.

**The Convener:** Yes, of course. We will have questions first.

**Nanette Milne:** We have all come across this important issue. Are you talking, by and large, about informal kinship carers or formal placements? I perceive, from the people who have been in touch with me, that there is a difference. Some of the kinship carers who have come to me have said that they think that some local authorities see kinship care as a cheap option. If granny takes the kiddie in the middle of the night she is stuck without any support, whereas if the child is placed by social work services, there is a bit of support. Is that an accurate reflection of the situation?

**Jessie Harvey:** Glasgow City Council has now brought in legal experts and there is what is called a placement or recommendation policy. There are 38 carers in my group, and 30 of them are on placement policies with section 10 payments, which means that social work services see that the children are at risk. The other eight kinship carers were recommended. They are in the same situation as me, but because they intervened in the family after seeing the kids at risk—surely, they have got a moral right to care for the children—they are dismissed and are not paid one brown penny. The abuse of their human rights and the discrimination involved make for the most ridiculous situation that we have had in years.

**Nanette Milne:** Thanks for that, Jessie. That confirms what I had picked up in my area.

**Bill Butler:** I have a question for Anne Marie Pfeffer. You said that there is no consistent,

country-wide support for kinship carers. How many local authorities pay anything at all and how many pay nothing at all?

**Anne Marie Pfeffer:** I think that you would struggle to find that information. My figures are drawn from the financial section in the application forms that I take. Most local authorities have the capacity to pay something, but they do not always do it, for the reason that Jessie has just outlined.

**Bill Butler:** How many do not do it?

**Anne Marie Pfeffer:** I could not tell you how many. Most local authorities pay something sometimes but not always, and they all pay different amounts in different circumstances. I think that you would struggle to get a complete answer to your question.

**Bill Butler:** Would you say that we lack a coherent governmental approach at whatever level of government?

**Anne Marie Pfeffer:** There is no cohesion or consistency at all.

**Bill Butler:** Jessie, you seem to be saying very clearly that you require government at all levels to listen to kinship carers and to involve you in the decision-making process. Am I right in thinking that that is one of the petition's aims?

**Jessie Harvey:** I can speak for the 38 grans in my group. We have 68 children and we are in a very deprived area of Glasgow, but we have every right to be round the table with these policy makers. We are the ones who live this—we have every right to say so, and we have the expertise to explain to you the damage that has been done to the children and how we must try to adjust to that. Not getting a services input is horrendous.

**Bill Butler:** Do you think that the lack of direct contact with kinship carers has led to the very patchy approach from government, especially local government?

**Jessie Harvey:** I think so. As Rhona Brankin and Bob Doris can tell you, a lot of people do not even know what the word kinship means. That includes social workers, who when you speak to them on the phone say, "I've got a kinship carer here." Those people are making decisions about our kids' lives.

It is only in the past two years—we were formed more than six years ago—that we have fought hard and got £40 in Glasgow. We are the lowest paid throughout 28 councils. Every one of the kids has the same needs, and a lot of them are damaged, like my wee grandson who has never slept in six years because he was a methadone baby.

It is hard when I do not get respite or financial help with heating or the clothing that he needs.

Why should he be excluded? Other people are paid to do that job, but because he is my kin he is excluded.

**Anne McLaughlin:** Jessie, I have met you before. I used to work for Bob Doris a number of years ago and I know that he has worked closely with you.

I expect that you will get a positive response to the petition and that the Scottish Government will be keen to talk to you. The purpose of bringing the petition to the committee is to raise awareness even further. As you said, a lot of people do not know what a kinship carer is. People are often interested in the human stories. When I met you and other kinship carers, I was struck by a lot of the stories that you told. I know that there are journalists here today, and that the meeting is going out on [hollywood.tv](http://hollywood.tv).

You do not necessarily need to talk about your own circumstances, as that might be a wee bit difficult for you, but you could give us an example of how someone came to be a kinship carer and tell us about the problems that the child and the kinship carer face that might be addressed if the issue is resolved.

**Jessie Harvey:** I am willing to give you my own personal case. I have a lovely son, but he has had an addiction in his life for 20 years. He is now 35 years of age. He met a partner who also had an addiction, and my beautiful wee grandson was born. They tried to use the parenting skills that they had to look after my grandson, but it was not happening. I got a call from social work to say that my grandson was at risk. We were put round the table and I was asked if I would take him. Obviously, it pulls at your heartstrings—I have another five grandchildren who are fine—so you say yes without hesitation.

I did not know then that no package was involved. I had to wait a year for his benefits. I had no nappies or Ostermilk. I was on the bare benefit of £63 a week and I was trying to look after this wee tot. I had no beds—nothing like that. I am not an exception—this happens to the biggest majority of carers.

We are getting there slowly. We are starting to speak to people like yourselves and directors of social work, but the barriers cause me stress as a carer. They ask you to do this job. They wipe their brow and say, “Thank God this wean’s going with family.” We should call ourselves relative foster carers or something, because the word “kinship” is sticking and it is like saying, “That’s my brother. I’d better gie him hauf of my piece.” This is not like that. This wee kid who was brought into my life is a grandchild. His mother brought him in.

There would be nothing better than to see his mother and father recovering, but you give people

20 years out of your life—sons or daughters—and then they bring this wee generation to people of our age and the whole system is sweeping it under the table and saying, “They’ll dae it. They’re grannies.” Why should we need to do it? It is not about us. Please believe us that it is not about people in my position. It is about your future. It is about wee kids who should be getting the services and the financial help that is out there. Government has to sit up or you have to ask it to sit up and take notice of these kinship care children.

I do not know whether you have seen this, but it is horrible to deal with a methadone child. In six years, a beautiful, skilful wee kid cannot adapt and get a night’s sleep. It is not me who is hurting with not getting the sleep—I can do that—it is him. That wee kid is now at school and it must be hard to go into school when he is tired from tossing and turning half the night. These things have to be addressed. I have waited six years. I am kind of at the forefront of kinship care, but I have never been able to see a psychologist. All you get told is, “Oh aye, they can get withdrawn,” but they do not know about the long-term effects. It is time that they did a bit of background research and learned about them, because an influx of these weans are getting thrown on top of us.

**Anne McLaughlin:** Thank you for saying all that. I have not met your grandson, but I now have a picture of him in my mind. What you have said will really help as we continue the petition. On a personal level, I think that your grandson and your family have a far better chance of a positive outcome because your grandson is with you and has not been adopted by somebody else, so he has a far better chance of maintaining or resuming a relationship with his parents in the long term. We really ought to appreciate that.

Thank you also for illustrating exactly why you need the money. It is not about having money for yourselves; it is about being able to care for this child properly and accessing services. As you said, your grandson was a methadone baby and you are getting no support from psychological services.

It is really important that we have learned today that it is not just a point of principle. You do not think, “They’re getting that money. We should be getting that money.” You have a real need and you are doing a real service, not just for your family but for the whole of society. Thank you for coming and telling us about it.

**John Wilson:** You will have heard about a previous petition when you were sitting in the audience. It took this committee three years to bring Scottish and UK ministers round the table. Other committee members might agree or disagree, but I think that we got more out of

today's discussion from having the two ministers sitting in the room giving answers to our questions. That ties into the petition that is before us, which simply calls on the Scottish Parliament to urge key individuals to sit around the table.

15:45

I am aware of the issues around kinship care and the financial strain that is put on individuals who take on that responsibility, and I am also aware of the situation that was referred to earlier, which involves the UK Government blaming the Scottish Government and the Scottish Government then blaming the local authorities. We have to get representatives of those bodies around a table so that they can come up with solutions to the issues that the witnesses have identified.

We have to move this issue forward. I know that you have a personal interest in it, convener, as you initiated a debate in the chamber on this matter almost two years ago, and I know that Bob Doris spoke in that debate as well. Many members are concerned about the fact that we do not seem to be able to solve the problems that have been identified. The least that this committee can do is to ask the Scottish Government to try to bring people around the table. I know, from the submissions that have been received, that there have been attempts to have meetings with individuals and to bring together various bodies to discuss the issue but that they have been hampered by other issues. However, it is incumbent on this committee to ask the Scottish Government urgently to seek a meeting of the various parties, including the kinship carers, to try to find a way forward that will ensure that everyone gains.

The issue is not just about kinship carers being given a voice; it is about the children who are affected by circumstances that are not of their making and which have to be addressed. Poverty is one area that we are all concerned about and, clearly, the situation in which kinship carers find themselves is driving them further into poverty. If we can get the UK Government, the Scottish Government, local authorities' social work departments, the voluntary sector and kinship carers around a table, I am sure that we can come up with a solution that will enable society to move forward in the knowledge that we have addressed the issues that have been raised today.

**Robin Harper:** Like many MSPs, I have been involved in supporting young carers through my work in Parliament and my work in the cross-party group on children and young people. I recall that, 10 years ago, it was estimated that there were around 3,000 young people in kinship care. Now, however, the estimate is that there are around

30,000. You said that there might be 10,000 or more carers, which is a rather frightening figure, but is there any suspicion in your minds that the size of the problem has been seriously underestimated?

The papers that we have before us say that, in 2007-08, there were 2,382 formal kinship care arrangements. What is meant by formal kinship care arrangements? Does it mean only the ones that were arranged through the children's hearings system or does it include those that were arranged through social work and so on? Is there any evidence to suggest that kinship carers have a better chance of getting support if they go through the formal hearings system placement procedure?

We have on occasion called people to give evidence directly to the committee. Do you think that it would be helpful if we cut to the chase and invite some directors of social work to appear before us to answer questions about how they handle kinship care in their areas? Perhaps we could ask for advice from Anne Marie Pfeffer to ensure that we get a wide spread of representatives.

**Martin Johnstone:** Evidence suggests that the number of children in kinship care might be growing at a rate of roughly 25 per cent a year. We fear that, at present, we are seeing only the tip of the iceberg.

As for whether children who are formally looked after receive a higher level of support, that would be the case not necessarily in relation to psychological services but with regard to the funds that are available. Given that the concordat agreement between the Scottish Government and local authorities focused largely on formally looked-after children, local authorities are responsible for deciding whether to give money to children other than those who are formally looked after. That is worth looking at, and we are appearing before you to galvanise every form of support possible to make the push. It would certainly help with the process if the committee drew evidence from various directors of social work to bore down into some of the detail.

**Robin Harper:** Can I—

**The Convener:** Before we continue, let me say that I am conscious of time and we have yet to hear from another petitioner who needs to leave quite soon. However, I do not want to bring the discussion to a close before we have had the chance to explore all the issues.

Do you want to come back, Robin?

**Robin Harper:** I just want to point out that if greater levels of care can be accessed through the formal arrangements, there is always, with the encouragement of carers, the possibility of self-

referral to the children's hearings system. I hesitate to load that system with the amount of work that I think would come its way, but I know from experience on the children's panel that people are occasionally encouraged to self-refer to get the formal help that they need.

**Jessie Harvey:** I do not have a lot of experience with panels. However, I know that when the £40 came in, kids were actually being taken off supervision reports and, because there was no social work involvement, it looked like the number of formally looked-after weans was going down and down. Things were looking good, but what was happening was that the kids were being put back on to us with all the problems and none of the financial help. You started to notice, because people were coming to us and saying, "Our weans are getting taken off of supervision reports." You had to wonder why, because the kids really needed social help. All you had to do was put two and two together and start watching the figures, because, like the unemployment figures, they would go down and then up again. We were not in a position to monitor the figures for carers and weans, but we saw that what was happening was having a lot of impact on them.

In the same vein, you also have to remember that there are hundreds and hundreds of kinship carers—the figure is maybe 13,000, but it could be as high as 20,000—who do not want social work to be involved and are frightened in case the weans are taken off them for whatever reason. Certainly that figure is a lot higher.

**Bob Doris:** Jessie Harvey has hit on a very important point. I always get the terminology the wrong way round—I apologise if I do so this time—but there was a feeling among kinship carers that before the kinship care joint commitment between local authorities and the Scottish Government, they were encouraged to take out residency orders to ensure greater security and provide more assurance that the kid would be kept in the kinship care home. However, as such children are no longer designated as looked after, they are no longer counted in the numbers in order to receive the cash. Permanency orders stop that happening and now provide the same rights, but we need a culture shift at a local level to ensure that social work departments see themselves not as givers of benefits but as assessors of need. There is real resistance in some parts of the country. Social work departments do not want to be handing out the pennies under a benefits system, which brings us back to the initial point about getting to the UK Government, which is the chief benefit giver in the UK, as well as the Scottish Government and COSLA.

I apologise, convener—I spoke for longer than you probably thought I was going to speak.

**The Convener:** There's a surprise. Thank you.

I ask members of the committee how we should proceed.

**Bill Butler:** From all that we have heard, I think that we should continue our consideration of the petition. We should write to the Scottish Government to ask whether it will attend the meeting that the petitioner has proposed and whether it will make representations to the UK Government, with a view to asking it to attend, too. More generally, I think that we should ask the Scottish Government what its views are on the issues that the petition raises. I do not think that we should let this one go.

**Robin Harper:** I agree with all that Bill Butler said. I wonder whether, pro tem, we could also decide that if we are not satisfied with the communications that we receive from the Government following its meeting with COSLA and the directors of social work, we reserve the possibility of approaching them ourselves.

**The Convener:** Is that agreed?

**Members indicated agreement.**

**The Convener:** The committee agrees that we will continue our consideration of the petition.

I thank everyone for coming. In particular, I offer a big thank you to Jessie Harvey for sharing her story with us.

## Current Petitions

### Fatal Accident Inquiries (PE1280)

15:56

**The Convener:** With the committee's agreement we will turn to PE1280, which is a current petition on fatal accident inquiries. That is because Julie Love is with us but has to leave early to attend a very important family event in Glasgow.

The petition, by Dr Kenneth Faulds and Julie Love, calls on the Scottish Parliament to urge the Scottish Government to give the same level of protection to the families of people from Scotland who die abroad as is currently in place for people from England by amending the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 to require the holding of a fatal accident inquiry when a person from Scotland dies abroad.

I invite members' views on how we should proceed. [*Interruption.*] While the committee considers that, Bob Doris and Frank McAveety would like to say a few words.

**Bob Doris:** Frank McAveety convened the meeting at which Julie Love gave evidence to the committee. I attended it, too. I have some remarkable constituents whom I try hard to represent. Jessie Harvey, who gave evidence on the previous petition, on kinship care, is one such person and Julie Love is another remarkable petitioner.

To get to the meat of what the committee is being asked to consider, as the Scottish Government has not fully considered the findings of the Cullen report and its recommendations on fatal accident inquiries, it will be quite difficult for the committee to work out how to progress the petition. I know that if I am privileged enough to be re-elected to the Scottish Parliament in May next year, it is an issue that I will not let go of. I am involved in research that goes wider than just FAs. A catalogue of failures let down Julie Love and her family. The inability to get answers on how safety could be improved was only one of a series of failures in the system involving the Foreign and Commonwealth Office and a number of other agencies that let Julie and her family down.

I will say no more than that. It is, of course, for the committee to decide how to pursue the petition, but I know that it is difficult to operate in a vacuum, given that the Scottish Government has not yet given its response to the Cullen recommendations. I am keen for it to do so before we pack up for the next election. I hope that if I am privileged enough to be returned to the Parliament, the petition will be among those that

the new petitions committee has to look at after May 2011.

16:00

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** I do not have a lot to add, other than to note the strength of feeling behind the petition, which was evidenced at a previous meeting of the committee and at the big launch that took place in my parliamentary area because of the involvement in the petition of Kenny Faulds, as a friend of the family.

Given the issues that have been raised, about which we could try to get clarity in a response from the Government, it would be helpful if the petition could be kept open between now and the dissolution of the Parliament for the 2011 elections or if it could be part of the committee's legacy paper. The committee will need to look critically at those issues over the next few months. It is one of those areas that a lot of people do not know a lot about until they are confronted with it. Bob Doris has had the matter raised with him, and in the dialogue that I have had with Mr Faulds, I have identified a strong sense that there needs to be clarity from the decision makers and in the legislation regarding foreign and commonwealth criteria. I encourage the committee to keep the petition alive to ensure that the family can get a sense of closure on the issue and that no other families have to face the terrible dilemmas that they have faced since the tragedy occurred.

**Nigel Don:** I thank colleagues for reminding us that the issue requires legislation—it is not something that we can just ask people to do. We have not received the Government's response to the Cullen report and I gather that we are not expecting it imminently. We all know that the legislative programme is now more or less defined and that we are running out of parliamentary time, so I formally suggest that we hold on to the petition and do not contemplate closing it. I do not know whether that means suspending it or simply holding on to it—I leave it to others to work out the wording. There is, sadly, probably no prospect of our being able to do anything useful until next May. We may just have to accept the reality of that and ensure that it is in the legacy paper for the next committee, so that we—or whoever is here next time—have it on the agenda for the next parliamentary session.

**John Wilson:** It has taken the Government some time to respond to the Cullen inquiry. The committee papers show that the previous convener of the committee wrote to the Government on 11 February but that a response outlining the Government's opinion was not received until 1 September. That opinion was that the Government would need to consider the

Cullen recommendations carefully before it would know how to take the issue forward. I express my disappointment that it has taken the Government such a long time to respond, especially as we have now missed the opportunity to introduce legislation before the parliamentary elections next year.

It is incumbent on the Government, as well as the Parliament, to act quickly on recommendations, whether it agrees with them or not, and to give a response to allow people to move on. For the petitioners and families who find themselves in this situation, the issue will now be carried forward for, potentially, another eight or nine months depending on the shape that the next Government takes, which means that we may not get another response for anything up to a year or 18 months. Given the fact that the recommendations were made at the beginning of the year, I think that it was incumbent on the Government to respond a lot quicker to enable us to resolve the matter. I express my concern that it has taken the present Government so long to make any recommendations, especially as it will now not make any recommendations prior to next year's elections.

**The Convener:** I am sure that you speak for the whole committee. There is frustration about the length of time that it has taken.

Fergus Cochrane may be able to say something about the timing of what happens next. If we suspend the petition, will it realistically have to wait until after the next election?

**Fergus Cochrane (Clerk):** Yes. If the committee agrees, we will be happy to speak to Scottish Government officials and pass on the comments that members have made this afternoon. We will obviously refer them to the *Official Report* of the meeting when that is published.

We will continue to liaise with Scottish Government officials. If between now and dissolution anything comes out from the Government, we will immediately bring the petition back to the committee and update members. If the Government does not make any announcement until after the next elections then, as with other petitions, you will flag the petition up in your legacy paper, detailing the consideration that the committee has given to it and the issues that you have pursued. It will be for the next committee to take those issues forward.

We will certainly keep in touch with Scottish Government officials to see whether anything comes out between now and dissolution. If it does, we will get the petition back to the committee immediately.

**The Convener:** It is agreed, then, that the petition is suspended. I thank Julie Love for coming.

## New Petitions

### Fluoride (PE1358)

16:05

**The Convener:** We return to consideration of new petitions. The second new petition is PE1358, by Lillian Gun, which calls on the Scottish Parliament to urge the Scottish Government to disseminate correct and accurate information regarding the uses of sodium fluoride and calcium fluoride to national health service boards and other bodies as appropriate.

I believe that Frank McAveety wants to speak about the petition.

**Mr McAveety:** Thank you for doing me the courtesy of allowing me to make a brief contribution.

The petitioner is a constituent of mine who has raised matters with me on a few occasions in the past year. Members will see from the Scottish Parliament information centre briefing on the petition the kind of inquiries that I have made on her behalf. The fundamental issues in Lillian Gun's petition are self-explanatory. One is a concern about legislation at UK level that could have, if I mix my metaphors properly, an overspill into the Scottish Parliament. The petition seeks reassurance on that.

A second issue is about the process of informing the public. Members will see from the briefing that, on fluoridation, probably uniquely among policy issues, 97 per cent of the public are opposed and 93 per cent of professionals are in favour. We would be hard pushed to find another policy issue on which the opinions are so diametrically opposed. That reveals either a major gulf in understanding or a genuine fear among the public about fluoridation. I know that professionals consistently raise matters with elected members on the effectiveness or otherwise of fluoridation, but we need to be aware of the public's concerns. Another big issue that is raised in the petition and that is worth exploring is about the nature of the information and the distinction between sodium fluoride and calcium fluoride.

The petitioner seeks help from the committee to tease out and explore the issues. I know that there are differing opinions on the subject in the Parliament and in the wider public. It would be helpful if the committee reassured the petitioner that we can explore her concerns as much as possible.

**The Convener:** How do members think we should take forward the petition?

**Bill Butler:** We should take it forward by writing to the Scottish Government to ask the basic question that the petitioner asks. Basically, we should ask the Scottish Government whether there is a need to disseminate accurate information regarding the use of sodium fluoride and calcium fluoride to NHS boards and other bodies as requested. We should also ask the Scottish Government what information, if any, it has disseminated. We could at least pursue that, but I do not know how colleagues are minded.

**The Convener:** Are colleagues happy with that suggestion from Bill Butler and that we write to a selection of NHS boards?

**Members** *indicated agreement.*

**The Convener:** The petition will be continued.

### Legislative Process (Judicial Involvement) (PE1361)

**The Convener:** The next new petition is PE1361, by Thomas Muirhead, which calls on the Scottish Parliament to urge the Scottish Government to review the involvement of the Scottish judiciary in the legislative process. Do members have any views on how to take forward the petition?

**Nigel Don:** The petition raises an interesting point, although it is one that students of law have been aware of for centuries. It is about the notion of the separation of powers. The idea is that we legislate and judges make decisions on the basis of that and, in principle, the two do not meet. In practice, most of the concerns that are expressed in the information that I have seen so far are probably unjustified, to the extent that the Parliament can ask the advice of anybody, including of course the judiciary, but it is the Parliament that makes the decisions. As long as we make an independent decision, it does not matter where we get our advice from.

However, if we stray and find ourselves being—shall I say—influenced by the judiciary rather than merely given advice by them, there is a point. If the judiciary have expressed the view that we have come up with the wrong answer, against their advice, that tends to raise eyebrows about who makes decisions and where the power lies.

If we wrote to ask the Government for its view on the petition, I suspect that it would also be sensible to write to ask the courts for their view. It might be appropriate to write to ask the Crown Office and the Scottish Court Service for their views. The interesting problem is that we will probably receive only two replies. The Scottish Government's view will probably come from the Lord Advocate, who is of course a law officer, and the Court Service is now run by the Lord



President. In theory, we should receive only two responses—one from the Lord Advocate and one from the Lord President.

We should see what happens. An important question has been raised and it needs to be considered. I am interested in those bodies' views.

**John Wilson:** If we are opening up the discussion on who to write to, I suggest that we write to ask the Faculty of Advocates and the Law Society of Scotland for their views. The difficulty with the petition is that we will tend to write to ask lawyers—people who have come through the legal profession—to comment. It is difficult to find someone who is outwith the profession who would want to comment. Academics at the University of Edinburgh, the University of Glasgow or the University of Strathclyde who are not in practice might have a view on the petition. It might be worth while to seek their views on the issues that the petition raises and on whether the concerns are valid.

**The Convener:** Is that agreed?

**Members** *indicated agreement.*

### **Family Law (Scotland) Act 2006 (Post-legislative Scrutiny) (PE1362)**

**The Convener:** PE1362, by Brian McKerrow Jnr, calls on the Scottish Parliament to urge the Scottish Government to demonstrate clearly how the Family Law (Scotland) Act 2006 complies with the European convention on human rights, the Children (Scotland) Act 1995 and the key tenets of Scots law and to publish the documents and evidence that show such compliance. What are members' views on how to take the petition forward?

**Anne McLaughlin:** I understand that the background to the petition is that mothers have automatic parental responsibilities and rights, as do fathers who were registered on children's birth certificates after May 2006, whereas fathers who were not married to their child's mother before that date do not have automatic parental responsibilities and rights. The petitioner believes that that does not comply with the European convention on human rights, the Children (Scotland) Act 1995 and other requirements.

The petitioner wrote to the Government, which replied that the law complies but that it would not publish the evidence of that. I do not remember the reason for that, but the Government does not have to publish that evidence, and Kevin Dunion agreed with the Government.

I am quite sympathetic to the suggestion that we are discriminating against parents who happen to be male and not married to their child's mother. In this day and age, a substantial number of children

are born outwith wedlock, so we must consider the rights not just of the unmarried father but of the child to access their unmarried father. I am interested in the subject.

16:15

At the very least, we should write to the Government and ask it to demonstrate how it is doing what the petitioner says it is not doing. We should ask how it can demonstrate that the Family Law (Scotland) Act 2006 is compliant with the European convention on human rights, the Children (Scotland) Act 1995 and the key tenets of Scots law. We should also ask the Government whether it will publish the document that it said it does not have to publish—I am interested to know why it believes it does not have to do that—and for its general views on the petition. That would be a starting point. I am interested in the issue and I would be interested to hear what the Government has to say on it.

**Bill Butler:** I agree with Anne McLaughlin. We should also write to Mr Tam Baillie, Scotland's Commissioner for Children and Young People, in that regard. It would be interesting to hear what he has to say.

**Nigel Don:** I confess that I do not know why the Government has decided that the evidence should not be put in the public domain. I therefore have no idea how to ask any question to get at that information. If the Government is not prepared to release the evidence for any reason, I wonder whether we could ask it to prepare—out of the goodness of its heart, shall we say—a short document that explains a rationale for the legislation. It would not necessarily have to go back to the original documents, but presumably it is not beyond some Government lawyer to write what would, in a sense, be like the answer to an exam question to say, "This is why we regard this legislation as compliant."

**John Wilson:** I suggest that we also write to the Scottish Human Rights Commission to ask for its opinion on the matter. As other members said, the Government has sought and received a legal opinion but is not prepared to release it. As Nigel Don said, it would be useful to find out exactly how it made the decision and what opinions were received that influenced the Government's thinking on the matter.

**The Convener:** Do members agree to continue the petition and seek those responses?

**Members** *indicated agreement.*

### **Gypsy/Traveller Encampments (Guidance) (PE1364)**

**The Convener:** PE1364, by Phyllis M McBain, calls on the Scottish Parliament to urge the Scottish Government to review all guidelines relating to trespass and encampments for Gypsies and Travellers to ensure that their intent is clear and that they are being applied.

We have been joined by Mike Rumbles and Alex Johnstone. I ask you to say literally a few words each.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Thank you, convener. The issue that is raised in the petition is a continuing problem in my constituency. It has been going on for 10 years, but it has now reached a pitch where it is causing real problems. I have to say that the solution is a simple one in theory but an extremely difficult one in practice.

If I can just explain, I think that what happens is this. If you or I turned up at a public place with a caravan and parked overnight where we were not supposed to park, the police would soon come round and move us on because we have somewhere to go. They would say, "Move on home," or that sort of thing. When Travellers pitch up, the police will not take action because, if the matter is taken to court, the sheriff will not take action against the Travellers because they have nowhere to move to.

The solution is simple, in my view. It is for Aberdeenshire Council to establish an authorised site somewhere in the Stonehaven area where Travellers could be moved to. If they did not move to that authorised site, they could then be removed by the police. That is the theory. However, it has proved practically impossible to get local agreement on where such a site should be located.

I very much support the petition. We have a situation where unauthorised camping is taking place. The rules and guidelines need to be examined and new guidelines set so that the authorities have the power, when Travellers arrive on a completely inappropriate site, to move them on. That is the short-term solution, but in the long term we need the council to provide an authorised site.

**Alex Johnstone (North East Scotland) (Con):** I declare an interest, as I live right in the heart of Mike Rumbles's constituency in the town of Stonehaven, where the petitioner comes from.

In the north east—and, I am sure, in other places—we have a long tradition, particularly in Stonehaven, of embracing the Traveller community. There has been a tradition of seasonal labourers moving in and out of the area, and that

has by and large worked very well since time immemorial.

However, during recent years there has been a slight change in the economic drivers behind the Traveller community and, I think it is fair to say, a heating up of the issues that surround the relationship between the Travellers and the settled community. That has come to a head on a number of occasions during the past four or five years in Stonehaven and elsewhere in the north east. One notable example is the incident that concerns the petitioner and the land that belongs to her family.

The situation relates to changes in the way in which those who are in positions of official responsibility act with regard to the law, and how they enforce it. I am sympathetic towards the police and the local authorities, and in particular towards the individuals who are responsible for policing issues that concern the Traveller community. They often feel that they can be threatened if they are perceived to have taken action that can be judged to have infringed in any way the rights of the individuals involved.

For that reason, I believe that there is a tendency to give any controversial issue a wide berth, which is why it is extremely important that we take the necessary action to ensure that we clarify the guidelines on Gypsy Traveller encampments. I suspect that the law as it exists is perfectly adequate, but I believe that some unfortunate people within the structure are afraid to implement it effectively at present.

I believe that the broadminded and sympathetic attitude of the petitioner, despite the experience that she and her family have had, makes her an extremely valuable and reliable witness if this committee or any other committee of the Parliament should wish to progress the matter.

**Nigel Don:** The issue is also pretty local to me, and I am grateful to my colleagues for presenting it in a cross-party way. That is hugely important and I hope that we maintain such an approach.

I echo Alex Johnstone's comments about Phyllis McBain, who is with us today. Her moderation on the issue is exemplary, and I hope that we can build on it. I hope that the media will build on it too, if I may say so kindly. We need to consider the issue dispassionately; some people can get very exercised on the matter, which does not help. We must try and attack it sensibly as a matter of policy.

I do not think that any of us is criticising the local officers, whether they are from the police, local authorities or any other public body. We have all been pretty well involved in the matter, and we are quite clear that it is to do with policy—possibly law, but certainly policy—at the highest level. We need to address those policies and strategies rather

than pointing fingers at the local officers, who are simply trying to do their best in circumstances that may not be what they would want.

I will add one factual point—at least, I think it is a factual point. The evidence that has come to me shows that the number of sites available to Travellers in the north east is thought to have reduced over recent years. The Travellers may feel that they do not have quite so many places to go, which is why they are coming to some of the other sites. That is not necessarily fact, but it is what I am hearing.

We need to write to the Government and the appropriate local authorities, although I am not sure how long that list should be. We should also write to COSLA and ACPOS at the very least to ask them to review their policies, strategies and guidance documents in the light of Phyllis McBain's—and, crucially, her mother's—experience to see whether those are joined up and consistent, and whether the procedures are implemented. That is what we are being asked to do. When we get those responses, we will be able to see where we go from there.

**John Wilson:** I suggest that we also write to the Equality and Human Rights Commission to find out where Gypsy Travellers stand in relation to the legislation. If my memory serves me correctly, petitions have been brought to the committee by Gypsy Travellers complaining about the harassment that they have suffered. It would be useful to get alternative views about how we should deal with the petition.

I also suggest that we write to some of the Gypsy Traveller organisations in Scotland to find out from the other side what the issues are that they are experiencing under the current legislation, and what they face when they try to establish campsites or go on to the official campsites, the numbers of which are reducing throughout Scotland, as Nigel Don indicated.

**Nanette Milne:** I was involved in this issue when I was a councillor and trying to get sites for some of these people was a big issue even then.

There is a genuine sympathy for Gypsy Travellers, who are an important ethnic minority, and we must respect their rights. However, I wonder whether some of the people that we are having difficulty with nowadays are genuine Gypsy Travellers or just occupational travellers, whatever we choose to call them. Is there any way of knowing who is who? Should the rights that are given to Gypsy Travellers apply to those who are not and who are, frankly, behaving unacceptably?

**Anne McLaughlin:** It is a shame that we do not have the time to do what we did this morning with the school buses, and get everyone around the table to talk about the issue. That was very useful.

John Wilson is right that we have a petition before us that says that the Trespass (Scotland) Act 1865 is used only against Gypsy Travellers, but it seems to be suggesting that the police are too scared to use it. I want to draw attention to some of the petitioner's words that struck me. She ends by saying:

"All citizens have the right to feel safe in their own homes and on their own property and any impediments to this feels like assault."

She also says:

"We did not care who it was – It was everybody else who was concerned that it was gypsies/travellers. We had trespassers making a mess. The fact that they call themselves gypsies/travellers is immaterial. Our concerns is the trespassing ... and the distress, expense and anxiety that it caused us"

and she mentions her elderly mother. My mother is 70 and if she went through what the petitioner's mother had to go through, I would feel exactly the same. The petitioner's language is tempered and we ought to take the petition seriously.

There is a suggestion that we include Gypsy Traveller groups in the discussion, and they will also take it seriously. We need to get together people from different sides of the argument, who have had different experiences, and ask them for their opinions. That will be useful to the petition.

**Nigel Don:** I just want to add that, as members can imagine, the issue has been around for a while, and the petition has only just reached the committee. I took the opportunity of writing to the Solicitor General for Scotland and asking for his advice on whether there are different types of Gypsy Traveller in law. I have a letter here that relates directly to the Trespass (Scotland) Act 1865 and asserts that, in that context, there are not different types of Traveller. I ought to share that letter with colleagues and the committee.

**The Convener:** Do we agree to write in the suggested terms?

**Members indicated agreement.**

**The Convener:** I thank the MSPs and Phyllis McBain for attending. I have experienced similar problems in my constituency; many members will probably have had those experiences. We think that the issue is important, and it is a pity that we do not have time to hear from everyone in person.

The petition will be continued on the lines agreed by members of the committee.

### **General Teaching Council for Scotland (Church Appointments) (PE1366)**

16:30

**The Convener:** The final new petition today is PE1366, by James Forbes. The petition calls on the Parliament to urge the Scottish Government to remove the seats reserved for the Church of Scotland and the Roman Catholic Church from the General Teaching Council for Scotland. Do members have views on how to progress the petition?

**Bill Butler:** It would be worth writing to the Government and various other bodies to ask whether they support the removal of those seats from the General Teaching Council for Scotland. In other words, we should ask them what their responses are to the points that are made in the petition. We should ask for responses from the General Teaching Council for Scotland, the Association of Directors of Education in Scotland, the Scottish Catholic Education Service, the Church of Scotland, the Educational Institute of Scotland and other unions. As I am a member of the EIS I usually refer to "other unions", but they are important too.

**The Convener:** Is that a declaration of interests?

**Bill Butler:** If you wish, yes. I am still a member of the EIS, but I am no longer registered with the GTC. After seven years—

**Anne McLaughlin:** Do you get expelled?

**Bill Butler:** No. The person has to pay money but is no longer liable to be registered. I gave up paying money when I was no longer liable to be registered. I hope that that makes things clearer for Ms McLaughlin.

**The Convener:** It probably does not.

**John Wilson:** I thank SPICe for its briefing on the petition. I am particularly intrigued by the quotation from the Church of Scotland that is included in the briefing; it has said that it and the Roman Catholic Church

"represent over 20% of the population of Scotland."

That means that almost 80 per cent of the population is unrepresented in the General Teaching Council for Scotland.

I suggest that, as well as the organisations Bill Butler mentioned, we write to the Scottish Interfaith Council, which attempts to represent all religious groups in Scotland, to ask for its opinion on the historic but important matter that the petition raises in order to get a view that is wider than the views of the two established churches in

Scotland on future religious representation on the GTC.

**Robin Harper:** I would like to clarify something. Patrick Harvie and I were written to, but we were away. I will leave it to Patrick Harvie to respond, as it is not appropriate for members of the committee to respond individually to requests for their opinions on petitions. I believe that that is a general feeling.

**The Convener:** Okay. So members agree that the petition will be continued and that letters will be sent to the organisations that have been mentioned.

## Current Petitions

### Transport Strategies (PE1115)

16:33

**The Convener:** Agenda item 3 is consideration of current petitions. PE1115, from Caroline Moore, on behalf of the Campaign to Open Blackford Railway-station Again, calls on the Scottish Parliament to urge the Scottish Government to ensure that national and regional transport strategies consider and focus on public transport solutions such as the reopening of Blackford railway station, which is identified as a priority action in the latest Tayside and central Scotland regional transport strategy, and in doing so recognise and support the positive environmental, economic and social impacts of such local solutions. Dr Richard Simpson is with us to say a few words. We also have a note from Liz Smith, who is unable to be present at the meeting but is keen to support COBRA. She has asked whether it would be possible to have a brief statement read out. Are members happy for that statement to be read out?

**Bill Butler:** Yes.

**The Convener:** The statement says:

"I have been a supporter of the COBRA petitioners for many years and know that they appreciate the support and positive feedback which they have received from the Public Petitions Committee.

The reason for my support is basically twofold:

1. All along, they have been keen to see the Blackford Station issue in the context of a wider strategic overview—while pushing their own case, they have not ignored the needs of other interested parties or the wider strategic needs of the Perth-Stirling A9 corridor which is seeing major developments in terms of demographic change.

2. Secondly, because they have been assiduous in undertaking a full cost-benefit analysis of the proposal and also consulting extensively with local people.

And notwithstanding the current economic climate which, we all know, is particularly difficult, I share the petitioners' concern that the current hierarchy for investment is being targeted on current stations and services in precedence to new or potential reopened stations. In the longer term, this area will have a vastly different demography with the resulting implications for movement of the working population and I therefore think it is important to consider this fact too. Indeed, it would be short sighted not to consider the business cases associated with all the options.

I think we should be mindful of the fact that the re-opening of Laurencekirk station in Aberdeenshire resulted in very much greater passenger usage than was first predicted, and think there is the possibility for this situation to develop at Blackford too. The on-going developments in ... Blackford/Gleneagles are considerable and I think it is important that the Scottish Government undertakes a very careful review of the potential benefits which re-opening

Blackford Station could have on the environment, the local economy (Ryder Cup 2014) and local communities.

I believe it is vital that a balanced, strategic transport review for the whole area is developed which takes into account the need of all local communities including Gleneagles and very much welcome the initiative taken by COBRA in this respect."

I have to say that that is the longest brief statement that I have ever had, but I am happy to have read it out. I now hand over to Richard Simpson.

**Dr Richard Simpson (Mid Scotland and Fife)**  
(Lab): I will try in my brief statement not to repeat too much of what Liz Smith has already said.

The committee has already examined certain important issues, but the Perth and Kinross access group has submitted further evidence. I stress that I am not trying to start a beauty contest between Blackford and Gleneagles stations, but I should point out that, with regard to the Ryder cup—which as we now know was highly successful when it was held in Wales; it attracted 40,000 visitors—disabled access at Gleneagles is appalling. There are questions about road access and there is no foot access. The committee will have seen a notice that was put up at the time of the Johnnie Walker championship—it said, "No Foot Access to Golf"—because the road system makes it so dangerous to walk in the area. Indeed, it is very difficult even for buses to access Gleneagles station. All of that presents major problems for one of the major events that are to happen in Scotland in 2014.

COBRA also questions the current costings for opening Blackford station. It feels that they are inappropriate for two reasons. First, the proposal has been judged to be far more expensive than it actually is—in light of evidence from Laurencekirk and Alloa, I support that view. Secondly, given that it was predicted that in its first year of reopening Alloa station would be used by 180,000 passengers when in fact it was used by 400,000, there seems to be a tendency to gross underprediction in such matters.

We should also recognise that the area's major employer, Highland Spring, is increasing its investment in the area. A considerable number of its employees already travel in from both directions by car. Opening the station would allow workers to travel in by rail instead. And, of course, Highland Spring's goods could be moved off the roads and on to rail.

On all those grounds, Blackford has a very strong case. As I said to the committee during my previous appearance, we now know that the UK Government has halved from £6 million to £3 million the provision for disablement funding to refurbish stations, which means that there will be much less potential to use that funding for

Gleneagles station. Indeed, given that the costs of refurbishing Gleneagles for the Ryder cup will be in excess of £4.4 million, such a move will absorb a significant proportion of that fund to the detriment of many members' constituents who are disabled and require access to stations that currently do not have such facilities.

**The Convener:** Thank you. I now seek members' views on the petition.

**Bill Butler:** Our information is that

"Transport Scotland has confirmed that in relation to the Ryder Cup it is currently working with several local authorities and agencies to develop a transport plan and that Scottish Ministers will decide on future resource allocations for this project as part of the Spending Review later this year."

Notwithstanding that, I think we should continue the petition because I believe that Dr Simpson, and Liz Smith in her written evidence, have asked questions that we need to pose again—or pose for the first time—to the Scottish Government.

I entirely take Dr Simpson's point about the disablement fund. He also made a very good point about underprediction of usage if Blackford station were reopened and cited the experience of the Stirling-Alloa-Kincardine route, for which there was a very strong case and which has been a roaring success.

The point about investment by Highland Spring and the probable switch from road to rail has to be raised again.

I do not think that we should close the petition simply because Transport Scotland is saying that it is doing its very best. As far as we can, we should exert pressure and maintain the profile of the campaign to get Blackford station reopened, or at least say that there are still questions to be answered.

I take Dr Simpson's point about Gleneagles station not being fit for purpose for the Ryder cup in 2014. Given that the Perth and Kinross access group and Dr Simpson said that the cost of refurbishing Gleneagles is almost equivalent to what it would cost to reopen Blackford, which is much better in respect of disabled access, bus access and so on, we should keep the petition open.

**Nanette Milne:** I agree with Bill Butler. I do not know the area at all, but Liz Smith cited the opening of the Laurencekirk station, where usage is 80 per cent greater than was predicted when it was opened. There is little doubt—I see it myself coming down in the train—that there is now a much greater move to using the railways. If a station is in a position to service the community that lives beside it, that is all to the good—that is why I am trying to get Kintore station opened. A

very good case is being made, particularly given that such a big event as the Ryder cup is fairly imminent.

**Nigel Don:** I agree entirely with the two previous speakers. We know that getting people to use the railways has many advantages, although we would rapidly have an even bigger problem with rolling stock.

**The Convener:** Does Richard Simpson want to add something briefly?

**Dr Simpson:** I just want respectfully to suggest questions that the committee might want to consider asking. It might want to ask VisitScotland, which is the other side of the team on the Ryder cup, exactly what is happening. Some of the people who have visited the station at Gleneagles have been appalled, and they are really worried about how Scotland will be perceived unless it is radically altered for the Ryder cup. Such alteration might be even more expensive than is being suggested.

It might also be worth asking Perth and Kinross Council for its view, because it is another partner in dealing with the tourism effects of the Ryder cup.

**The Convener:** Thank you. That is helpful. Do we agree to continue the petition in the meanwhile?

**Members indicated agreement.**

### **Nature Conservation (Scotland) Act 2004 (Snares) (PE1124)**

16:45

**The Convener:** The next petition is PE1124, by Louise Robertson, on behalf of the League Against Cruel Sports, Advocates for Animals, the International Otter Survival Fund and the Hesselhead Wildlife Rescue Trust. The petition calls on the Scottish Parliament to urge the Scottish Government to amend the Nature Conservation (Scotland) Act 2004 by introducing provisions to ban the manufacture, sale, possession and use of all snares. I seek members' views on what we should do to take the petition forward.

**John Wilson:** I seek clarification from the clerk—through you, convener—on when the report that has been commissioned by the Department for Environment, Food and Rural Affairs is likely to be published.

**The Convener:** We do not have that information. Like you, I have been a bit concerned about that.

**John Wilson:** I think we should suspend consideration of the petition until such time as the report is published. Then, we can seek clarification from the Scottish Government as to how it intends to respond to the report. We are debating the matter without full knowledge of the report that has been commissioned by the UK Government, and it would be useful to get responses from the Scottish Government based on that report. We cannot ask the Government any further questions on the matter until the report has been published.

To be consistent, I should state that the time it is taking the Scottish Government to respond to letters from this committee—a committee of the Parliament—is ludicrous. By my calculation, it has taken almost seven months to draw up a three-paragraph response. That leads me to question whether the Government takes this committee—a formal committee of the Parliament—and our deliberations on the petitions that come before us seriously.

**The Convener:** I absolutely agree. I am not sure whether we should consider doing something about the matter. The committee has the option of referring the petition to the Rural Affairs and Environment Committee. As John Wilson said, the issue has been running for a long time and the Government has been round the houses on it. I understood that legislation was to be proposed. What is the timing of that?

**Fergus Cochrane:** I am not sure about the timing of any legislation. I return to the point that John Wilson made. We have been speaking to Scottish Government officials to try to get an indication of when the report might be published. We do not want continually to put a petition back in front of the committee when there has been no action. If we had had an indication from the Government of when the report will be published, we would have left the matter.

We are happy to have a further discussion with the Government and to pass on the comments and concerns that members have raised. The minister gave evidence on the petition earlier this year. We would be happy to assist should the convener wish to write to the minister again about the issue.

**The Convener:** What about referring it to the Rural Affairs and Environment Committee? What are the possibilities there? I do not know what the workload of that committee is like at the moment. Like everybody else, I think that the process has taken far too long. A lot of people have major concerns about the issue; we need to get some movement on it.

**Fergus Cochrane:** The option to refer the petition is always open to the committee. The Rural Affairs and Environment Committee has two

bills before it just now. I am not sure that anything in its work programme is directly related to the petition. The position of the Public Petitions Committee in the past has been to keep petitions going under circumstances of this sort, as this committee can be best placed to take the matter forward. There might not be anything in the work programme of the Rural Affairs and Environment Committee that could easily accommodate the petition at this time and take the matter any further forward than this committee can achieve. The option of referring the petition is always available to you, however.

**The Convener:** I do not know what the committee thinks about this, but would it be possible to have a quick look at the petition again at our next meeting? We do not have in front of us the information that would allow us to make a full decision about where we should go with it. We must bear in mind the workload of the Rural Affairs and Environment Committee and the proposed legislation that might be coming through. Is that okay?

**Anne McLaughlin:** We are saying that we are awaiting the outcome of the report that has been referred to. Are there other options for the committee? Do we have to wait for that report to come out? The use of snares in England and Wales is being considered, but is there anything to stop us deciding that we are fed up with waiting and pressing on ahead regardless of the report?

**The Convener:** There is a danger of just going on and on rather than putting pressure on the Government to do something. There has been discussion and consultation on the matter for long enough.

**Bill Butler:** We are all frustrated at what is happening with this petition, but there is a problem. I agree with John Wilson that we should suspend the petition for three or four months. We are trying to find not a hook on which to hang the Government but a way of saying, "In light of the report that has been produced in England and Wales, what action will the Scottish Government take?"

At the moment, the Scottish Government has a fixed position that I do not think commands support, although it has never been tested. I think that what the petitioners are asking for commands support. However, we cannot state that with certainty. I do not think that we should refer the petition to another committee—time is short; there are only about six months left of this session. Rather, as soon as the report is published down south, it would be appropriate for the clerk to write to the Scottish Government to ask for its view on the matter.

**The Convener:** Two views are emerging: one is that we should suspend the petition; the other is that we should try to push the issue forward.

**Nanette Milne:** I would prefer to suspend it until we see the report.

I have a slight issue with Bill Butler's assertion that there is no support for snaring, as there is clearly some support for it to remain an option for the keeping down of what are called vermin.

**John Wilson:** I support Bill Butler's suggestion that we suspend the petition for four months, but I think that it should come back to us for further consideration regardless of what has happened with the report down south. Bill Butler is right to say that we cannot keep on delaying discussion on this matter. It would be useful if we could get some resolution to the petition. We should suspend consideration for four months and move forward at that point, regardless of what else has happened.

**The Convener:** Does the clerk have something to say about the period of four months?

**Fergus Cochrane:** The committee will meet again on 9 and 23 November. If the committee agrees, we could prepare a letter for the convener to send to the UK minister at DEFRA to outline the concerns that members have raised and try to get more specific information about when the report will be published. I could aim to get that update back to the committee for 23 November. Any information that we could get about when the report might come out could help us to timetable further consideration of the petition in a more precise way than saying that we will come back to it in four months' time.

**Bill Butler:** That is an excellent suggestion. I withdraw my suggestion in favour of that suggestion.

**John Wilson:** The only point that I would make is that the suggestion is good provided that DEFRA responds timeously, unlike the Scottish Government. Going by the time the previous response from the Scottish Government took, we might be six months down the road before we get a response from DEFRA.

**The Convener:** I agree. We should write to the Scottish Government in strong terms about the lack of response, the lack of progress and the time it has taken to progress the issue.

**Anne McLaughlin:** Can I ask a question? You said that, in that period, the minister gave evidence—is that right?

**The Convener:** No, that was at the beginning of the year.

**Anne McLaughlin:** Oh. I thought that it was after we sent the letter, which would mean that we

have had a response, because we have had a minister before us to give evidence on the petition.

**The Convener:** No, it has been dragging on.

### **Independent Vehicular Ferry Routes (PE1192)**

**The Convener:** The next petition is PE1192, by Donald Ewen Darroch. The petition calls on the Scottish Parliament to urge the Scottish Government to state how it is supporting and promoting independent vehicular ferry routes between the islands and the mainland and how the planning system is playing a constructive role in supporting the economic and social future of such routes. I seek members' views on how to take the petition forward.

**Nigel Don:** I get the impression that the letter from the ferries division in the aviation, maritime, freight and canals directorate of Transport Scotland is helpful. First, it appears to relate to the subject and, secondly, it gives us a timetable, which is wonderful. Ms Locke tells us that the consultation closed on 30 September and that Transport Scotland will give the committee an update by the end of the year. I therefore suggest that we suspend further consideration of the petition until we have received the update, which essentially means until the first meeting of next year.

**Members indicated agreement.**

### **Tail Docking (PE1196 and PE1230)**

**The Convener:** Petitions PE1196 and PE1230 are being considered together.

PE1196, by Michael Brander, calls on the Scottish Parliament to urge the Scottish Government to amend the Animal Health and Welfare (Scotland) Act 2006 as a matter of urgency to allow for the tails of working dogs to be docked.

PE1230, by Dr Colin Shedden, on behalf of the British Association for Shooting and Conservation, the Scottish Countryside Alliance, the Scottish Gamekeepers Association and the Scottish Rural Property and Business Association, calls on the Scottish Parliament to urge the Scottish Government to amend the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2007 to allow prophylactic tail docking of working dogs under tightly specified circumstances. I seek members' views on the two petitions.

**Nanette Milne:** I believe that we have a timescale from the Government on this one. It will decide within the next two months whether to commission further research in light of the report that has been published. We should again



suspend consideration of the petition until we get that decision and hope that the Government sticks to the timetable that it has given us.

**Members** *indicated agreement.*

### **National Youth Volunteering Policy (PE1278)**

**The Convener:** The next petition is PE1278, by Kimby Tosh, on behalf of Project Scotland. The petition calls on the Scottish Parliament to urge the Scottish Government to demonstrate how it supports national youth volunteering opportunities, which deliver skills development for all young people in Scotland, and to develop and implement a national youth volunteering policy for Scotland. I ask for members' views on the petition.

**Bill Butler:** Colleagues will remember that the petition originated in the discussions that were had in Parliament and outwith it about Project Scotland and the future or otherwise of structured, paid volunteering for young people aged 16 to 25.

Project Scotland is a marvellous organisation and its record stands up to even the most severe sceptical examination, but it is clear that the Scottish Government does not feel that it is right to provide a separate national programme of financial support for young people who are volunteering. I regret that decision—it is disappointing, wrong-headed and a mistake—but the fact remains that, at the moment, it is the Scottish Government's position.

Members will see from the clerk's note that Project Scotland continues to serve as an independent organisation and that it is securing alternative financial backing from various sources as a result of the commitment, dedication, hard work and lateral thinking of Ms Watt and her team.

We have to be realistic and say that, at present, the committee cannot do anything else. There will certainly be an election on the first Thursday of May next year and I know—not to be overtly party political—that my party will make a commitment to structured youth volunteering. We will see what the electorate says but, at the moment, there is, regrettably, no option other than to close the petition.

**The Convener:** Does the committee agree to close the petition?

**Members** *indicated agreement.*

### **Planning (Protection of National Scenic Areas) (PE1295)**

17:00

**The Convener:** PE1295, by Flora Dickson, calls on the Scottish Parliament to urge the Scottish

Government to clarify how sites that have been identified as areas of national scenic value can then be considered as suitable locations for the building of crematoria and other developments; whether allowing under the planning system for applications to build crematoria and other developments runs contrary to the reasons for sites being designated as such; and whether the promotion and protection of our natural heritage should merit that a full and robust environmental impact assessment is conducted for any planning applications that are made. I seek members' views on how to proceed with the petition.

**Bill Butler:** We could invite the Scottish Government to respond to the petitioner's questions. Alternatively, as the Scottish Government has confirmed that Scottish Natural Heritage will produce in the autumn guidance to accompany its report "The Special Qualities of the National Scenic Areas", we might wish to suspend the petition. However, perhaps it would be best to ask the questions and continue the petition.

**John Wilson:** Rather than suspend the petition, we could write to the Government and ask when it expects that guidance to be published. We could continue the petition. As well as asking the questions from the petitioner, we can ask when the guidance is expected to be produced.

**The Convener:** Do members agree to those suggestions?

**Members** *indicated agreement.*

### **Haemochromatosis (Screening) (PE1298)**

**The Convener:** PE1298, by George Scott, calls on the Scottish Parliament to urge the Scottish Government to promote and support the introduction of national screening for and a science-based diagnosis of haemochromatosis, or iron overload, within NHS primary care. I seek members' views on the petition.

**Nanette Milne:** To a large extent, the petition has achieved its aim, in that the Government has suggested that the Haemochromatosis Society consider the scope to provide awareness sessions at general practitioner practice training sessions. The Government has confirmed that a grant application has been made to the chief scientist office for further research on the issue. The Government has given a commitment that it is willing to meet the petitioner again to take forward the work on raising awareness. I think that the petitioner would be reasonably satisfied if we closed the petition.

**The Convener:** Do members agree that we should close the petition?

**Members** *indicated agreement.*

### **Myoclonic Dystonia (Care Standards) (PE1299)**

**The Convener:** PE1299, by Geraldine MacDonald, calls on the Scottish Parliament to urge the Scottish Government to set national standards of care for all myoclonic dystonia sufferers and to issue guidance to local authority social work and housing departments to ensure that they provide adapted service provisions and environmental adaptations to sufferers, based on a fair assessment of their condition. What are members' views on how to take forward the petition?

**Nanette Milne:** I suspect that this is an afternoon for suspension. This is another petition that we could legitimately suspend, because health boards are meant to be implementing NHS Quality Improvement Scotland standards for neurological health services, but so far not all of them have done so. We could suspend the petition until that work has been undertaken and then bring it back to the committee.

**The Convener:** Is it agreed that we suspend the petition until we get that information on implementation?

**Members** *indicated agreement.*

### **Scottish Water (Executive Bonuses) (PE1300)**

**The Convener:** PE1300, by Drew Cochrane, calls on the Scottish Parliament to urge the Scottish Government to issue a direction to Scottish Water under the Water Industry (Scotland) Act 2002 to discontinue the practice of paying bonuses to its senior executives. Do members have any views on how to take forward the petition?

**Bill Butler:** I wish that I had a bright idea about how we could continue the petition, because frankly I agree with it. However, it seems that the Scottish Government has stated more than once why it will not issue such a direction to Scottish Water. The Scottish Government has made a commitment to monitor the water industry closely to achieve maximum efficiency and cost savings, but that is not the same thing. That seems to be all that we will extract from the Government. If colleagues have a bright idea about how to continue the petition, I would be delighted to hear it. I think that the petitioner is correct, but perhaps I am being less than objective.

**John Wilson:** Like Bill Butler, I will be less than objective about the issue. I, too, agree with the petitioner's assertion that we should end bonuses for Scottish Water. In the current economic climate, there is a wider issue around paying bonuses to senior executives when we are talking

about potential redundancies for many low-paid workers throughout Scotland. The practice is abhorrent.

However, Bill Butler is right to say that the Government has said that it will not change current practice. It is unfortunate that it has taken that view and continues to hold to it.

I seek guidance through you, convener, from the clerk, because I am not sure whether we can do what I am about to suggest. Can we write to the Government again and ask whether there would be any circumstances in which it would reconsider the payment of bonuses to senior executives in Scottish Water, particularly in the light of the economic situation in which we find ourselves? Can the Government continue to justify paying substantial bonuses to senior members of staff when there might be redundancies in the industry?

**The Convener:** Do members agree? Are there any other views?

**Bill Butler:** Let us have another go, but I fear that we know what the response will be. We might as well. John Wilson wants us to ask whether there are "any circumstances" under which the Government would change its mind; given that that is a new question, let us have another go and hope that the Government sees sense.

**The Convener:** There is a bit of wry smiling going on. Do we agree to do write to the Government again?

**Members** *indicated agreement.*

### **Mental Health (Care and Treatment) (Scotland) Act 2003 (PE1310)**

**The Convener:** PE1310, by Jean Gerrard, calls on the Scottish Parliament to urge the Scottish Government to amend the Mental Health (Care and Treatment) (Scotland) Act 2003 to abolish the overuse of compulsory treatment orders for non-violent mentally ill patients, and to provide a process that allows patients and their representatives to challenge any perceived errors in the CTO report that can lead to misdiagnoses, faulty speculation and the administration of unwarranted forms of treatment. I seek views from members on how to proceed with the petition.

**Nanette Milne:** The petitioner is quite happy so far, because the Government has taken positive steps on the issues that she has raised. However, she raises a lot more questions and it would be fair if we were to keep the petition open and put those questions to the Government.

**The Convener:** Is that agreed?

**Members** *indicated agreement.*

### Honest Politicians (PE1316)

**The Convener:** PE1316, by Matthew Goundry, calls on the Scottish Parliament to urge the Scottish Government to ensure that all individuals who seek election to local or national public office, such as councils and the Scottish Parliament, are subject to enhanced disclosure. What are members' views?

**John Wilson:** I think that we have exhausted the questioning on the issue. Some members will remember that, when the petition was first presented to the committee, I raised concerns about the practicalities of carrying out enhanced disclosure on all candidates for public office and what that information would be used for. To date, we have received responses from the Labour Party and the Scottish National Party regarding their procedures for selecting candidates. I am aware that, in certain circumstances, when people are elected to public office, they may be subject to disclosure checks by the local authorities and other bodies anyway, before they can take up certain committee positions in those organisations. I think that we have exhausted the line of questioning that we can pursue with the petition and I suggest that we close it.

**The Convener:** The responses that have been received from the Scottish Labour Party and the SNP address the questions that were asked by the committee and identify some of the procedures in the process of selecting potential candidates for election with the overarching goal of ensuring that candidates are of the highest probity. That allows us to close the petition under rule 15.7 of the standing orders. Are members happy to close the petition?

**Nigel Don:** Forgive me, convener, but although the responses address the issues that the committee raised, the petition is about enhanced disclosure. I admit that I have forgotten where we got to on that. Did we draw the conclusion that it was not possible to do that?

**The Convener:** I am struggling to remember.

**Nigel Don:** I am trying to get back to the petitioner's original point. I am reading the words of the petition and asking whether we have addressed the specific issue that the petitioner put in front of us.

**Fergus Cochrane:** When the committee first considered the petition, on 15 March, the first questions that we put to the Government were:

"Will it take steps to ensure that all individuals seeking election to local or national public office (council, Scottish Parliament) are subject to enhanced disclosure? If not why not?"

We asked a specific question. Unfortunately, I do not have a copy of the response that we received

from the Government to that question. That was considered the last time that we looked at the petition. We have certainly asked the question.

**Nigel Don:** My problem is that I cannot remember the answer either. My recollection is that it was not possible to do that, but I have not got that lodged with a reason somewhere in my mind. If we are clear that the question has been answered, I am happy to close the petition, as I do not think that it will go anywhere. However, if that were not the case, we owe it to the petitioner and the general principle of why we are here to ensure that we have addressed that specific question.

**John Wilson:** The underlying question is about who would apply to carry out the enhanced disclosure. I understand that, according to the Disclosure Scotland procedures, an organisation or individual would have to apply to receive an enhanced disclosure. The Government has said that

"the Ethical Standards in Public Life etc. (Scotland) Act 2000 established a framework to ensure that the highest standards of behaviour were maintained by local authority councillors and members (such as board members) of certain public bodies."

Elected members would be covered by the provisions in the Ethical Standards in Public Life etc (Scotland) Act 2000. However, at a rough estimate—I tried to do the calculation earlier today—the Scottish Parliament elections next year will involve something in the region of 1,000 candidates putting themselves forward for election. The local government elections in 2012 could involve 3,000 to 4,000, or possibly 5,000, candidates. Who would perform those enhanced disclosure checks and, ultimately, who would pay for them?

At the moment, any organisation that brings people into contact with children or vulnerable adults has to pay for a disclosure or an enhanced disclosure on someone applying for a job or to be on its board. Who would hold the information on individuals seeking public office? If an organisation that would hold and monitor such information had to be set up, would it be subject to freedom of information requests for other information that might be provided publicly to individuals with an interest and/or information on enhanced disclosure that might be used to a candidate's detriment?

17:15

**Bill Butler:** Having listened to John Wilson, I think that the committee has gone as far as it can go with the petition. We should simply state as much and, as the convener suggested, close the petition under rule 15.7 of standing orders.

**The Convener:** Are members agreed?

**Members indicated agreement.**

### School-age Workers (PE1317)

**The Convener:** Our second last petition is PE1317 by Paul Dryburgh and Ellen Cummings, which calls on the Scottish Parliament to urge the Scottish Government to take the necessary action to ensure that the rights of school-age workers in part-time employment are protected so that employers cannot impose excessive working hours to the detriment of the workers' academic studies and to bring about greater transparency in the distribution of tips to young workers in the hospitality trade. Do members have any views?

**Anne McLaughlin:** First, we should congratulate the petitioners on what they have achieved. Indeed, we did so when they gave evidence to the committee, and they did an absolutely brilliant job in raising certainly my own awareness of the issue. I am not sure whether this is directly related to the petition, but the Scottish Child Law Centre has produced a leaflet on the rights of workers under the age of 16 that covers UK and Scottish regulation. Moreover, the Scottish Government is prepared to meet the petitioners to discuss what more it can do to raise awareness of the rights of workers under the age of 16. The petitioners have done—and will continue to do—a terrific job, but I do not think that the Public Petitions Committee can do anything more with their petition and, as a result, I suggest that we close it.

**The Convener:** Are members agreed that, under rule 15.7 of standing orders, we close the petition?

*Members indicated agreement.*

### Leisure Facilities (Free Access) (PE1318)

**The Convener:** PE1318 by Ronan Buist, Megan Lumsden and Daniel Swaddle, who are all pupils from Waid academy in Anstruther, calls on the Scottish Parliament to urge the Scottish Government to give free access to all publicly funded leisure centres, including swimming pools, for all school-aged children across Scotland. Do members have any suggestions on what to do with the petition?

**Bill Butler:** I think that, under rule 15.7, we should close the petition on the basis that we have taken it as far as we can. For a start, the Scottish Government has stated its continuing commitment to encouraging local authorities to provide free or reduced cost swimming to help achieve a number of objectives in the single outcome agreements. Moreover, local authorities' experience is that granting free access to leisure activities does not necessarily guarantee an increase in participation and that, for most people, cost is not seen as the only or most important barrier to their participation

in physical activity and that the main issues are general interest and prioritisation of time.

The petitioners, who, as you say, are Waid academy pupils, should be congratulated on raising these issues so eloquently and in a mature way that impressed the committee. However, we have taken the petition as far as we can and I suggest that we close it.

**The Convener:** Are members agreed?

*Members indicated agreement.*

**The Convener:** I am sure that the committee will join me in thanking the pupils from Waid academy for their work on the petitions and their achievement in coming before the committee.

## New Petitions (Notification)

17:19

**The Convener:** The final item on the agenda is notification of new petitions. The committee is simply invited to note the new petitions that have been lodged since our last meeting and which will be timetabled to come before us for consideration at the earliest opportunity.

I thank all members for tackling the petitions that were before us. We have had a bit of a marathon session. The committee's next meeting will be held on Friday 29 October—or three days' time—in the chamber as part of the Scottish Youth Parliament conference.

*Meeting closed at 17:20.*



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