



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 30 October 2012

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PUBLIC PETITIONS COMMITTEE

15th Meeting 2012, Session 4

CONVENER

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COMMITTEE MEMBERS

*Jackson Carlaw (West Scotland) (Con)

*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

*Angus MacDonald (Falkirk East) (SNP)

*Anne McTaggart (Glasgow) (Lab)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab)

Alex Johnstone (North East Scotland) (Con)

Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Brownlie (Scottish Government)

Roseanna Cunningham (Minister for Community Safety and Legal Affairs)

Helen Eadie (Cowdenbeath) (Lab)

Douglas Reid

Les Wallace

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 30 October 2012

[The Convener *opened the meeting at 10:03*]

Interests

The Convener (David Stewart): Good morning and welcome to this meeting of the Public Petitions Committee. I remind everyone to switch off their mobile phones and electronic devices, as they interfere with our sound system.

I have received apologies from Chic Brodie. I welcome to the committee Adam Ingram, who is replacing Richard Lyle. On behalf of the committee, I thank Richard Lyle for his contribution to the committee's work.

Agenda item 1 is a declaration of interests by Adam Ingram. In accordance with section 3 of the code of conduct, I invite Adam Ingram to declare any interests that are relevant to the committee's remit.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): I have no relevant declarable interests.

The Convener: Thank you for that.

Decision on Taking Business in Private

10:04

The Convener: Agenda item 2 is a decision on taking business in private. Do members agree to take in private item 6, under which the committee will consider the evidence heard under item 3, and item 7, on the terms of reference for an inquiry?

Members *indicated agreement.*

The Convener: We agreed to take evidence on PE1367, on mosquito devices, from the Minister for Community Safety and Legal Affairs. The minister will be in at 10.30, so, with members' permission, I will change the order of the agenda items so that we take item 4 first.

New Petition

Recycling in Schools (PE1437)

10:04

The Convener: PE1437 is a new petition, by Les Wallace, on recycling in schools. Members have a note by the clerk, a Scottish Parliament information centre briefing, and a copy of the petition.

I welcome Les Wallace to the meeting. I am grateful to you for coming, and appreciate your giving your time.

I invite you to make a short presentation. We will be fairly liberal with time this morning. You have between five and 10 minutes; I will then ask you a few questions.

Les Wallace: Thank you very much for letting me speak to the committee.

I first became involved in education on recycling and reducing in February 1989, so I have been involved in the issues for quite a long period. At that time, I was one of the original participants in a kerbside collection scheme in Falkirk district, which was one of the original schemes that introduced kerbside recycling to Scotland. Within a few weeks, it became blatantly obvious to me that the scheme was not going to work. There were serious problems with how it was being implemented, the most serious of which was a general failing with education. Very little attention was paid to the purpose of getting reduce, reuse, recycle information out to the public and, even worse, there was very little interest in people going into schools and developing a recycling ethos in them. That was despite the fact that, even at that time, there was a considerable amount of rhetoric about the importance of getting children when they were young. That is common sense. I know from my experience that it is not an urban myth or wishful thinking that, when young children get an opportunity to recycle, they are extremely enthusiastic about it. I have personal experience of that, and have found that it is not the problem.

The problem is institutional apathy towards providing young children with opportunities for hands-on recycling. That is a serious failing that I have seen over 20 years, and there is shared blame for it. Some of the blame goes to central Government policy, a lot goes to local authorities and the green movement—which did not pay as much attention to the issue as it should have done—and an element of blame goes to education departments and schools.

We must establish basic mandatory standards in implementing reduce, reuse, recycle practice

and teaching in schools, and we must start to look at where the best practice is and ensure that it is the standard. We must move on from there and develop and experiment. Despite the general environmental aims, the legislation and the funding for the promotion of recycling and reducing, the educational aspect is extremely poor. It is inconsistent and generally inadequate.

My petition focuses on a key indicator: the provision of recycling facilities in school playgrounds. If enough waste is produced for waste bins, there should automatically be a case for deploying recycling bins at the same time. Not having them sends out a mixed message. It undermines the critical reduce, reuse and recycle message, and an important opportunity to establish a mindset in young children is lost.

I saw that attitude even as I came to Edinburgh today. I came on a ScotRail train to Waverley station. Commuting is a high-profile activity. It is the main element in the lives of many people, but our national railway station has no separate recycling bins. Apparently, everything goes in waste bins and is taken away, hand sorted and recycled. If that is the case, it is a poor way of recycling, and that is a failing.

That approach is also reflected in the fact that many school playgrounds do not have separate recycling facilities. The two issues are linked. I have discussed the matter with many people, and no one has disagreed with me on the importance of developing people's mentality at a young age. There is a considerable amount of evidence and experience to show that getting children involved in recycling has an immediate effect in changing adults' behaviour. Our general recycling rate in Scotland is appalling. Also, bringing in recycling is probably a much better way of developing anti-litter attitudes than just providing litter bins. I have never had any dissension on that.

In my area, Falkirk district, no one, including the education department, can tell me which schools provide recycling bins in the playground and which ones do not, far less identify which is the best scheme that all schools should follow.

I have had quite a lot of discussions with people that seem to indicate that in my area there is a limit on how much material schools can recycle. It seems that the relevant council department limits the amount of material that it collects from schools. It is technically limited. It is a ridiculous situation that needs investigation, although I am not entirely surprised because we have had similar comments from people in other areas of Scotland. In fact, I have some quotes that I have collected and will pass on to the committee.

We have reached the stage where we need to bring the educational aspect of promoting the

reduce, reuse, recycle policy to the same level as the legislation and funding. Essentially, that is the point of the petition. We need seriously to consider some mandatory standards because the reduce, reuse, recycle policy has been badly neglected for a long time. It will be much better to put our efforts into developing education and improving reducing, reusing and recycling rates than to invest in incineration, which will commit us to the production of a lot of waste and will not solve the litter problem.

The Convener: Thank you for your contribution, Mr Wallace. I strongly support a number of the issues that you have raised.

A couple of years ago I went to Eigg, when the primary school won one of the eco-school awards. I was really impressed with all the work. It was not just one class—the whole school seemed to be integrated. That approach is very much reflected in your points on recycling.

My understanding is that there is some legislation, which I think will be fully enforced in 2014, that requires schools to do a lot more work—it very much echoes the points in your petition. Do you feel that that legislation is sufficient and that schools should be doing a lot more before 2014 to get up to scratch?

Les Wallace: I have not seen the legislation, although it is encouraging to hear that it is there. My answer is that it depends on whether the legislation is fully implemented and whether the standards are set, kept and not watered down between now and 2014. There really has to be a big effort before then to establish work with schools.

You are right that some schools are doing a really good job, but some are not. My feeling, which relates to what other people have said, is that at the moment some children are receiving a decent education on the reduce, reuse, recycle approach but it is a lottery—it depends on the school, the teachers and the local authority. It is inconsistent.

The good schools are the exception, but we have to make them the standard. There is certainly a big difference among schools. Schools should have set standards. Also, if a technical problem is being imposed on schools, that should be removed. If there are any bureaucratic considerations, those should be dealt with, too. The issue is partly that schools need a push and partly that things have to be made easier for them.

It is unfortunate that the positive examples sometimes get used to obscure the problems with other schools. That happens quite a lot. The examples that are held up are the exceptions—they are not standard. That can be a wee bit counterproductive.

The Convener: You may have already covered this, but you probably know that the General Teaching Council for Scotland is consulting on revised professional standards for teachers. Issues to do with sustainability and recycling could be part of that. Is contacting the GTC something that you have considered as part of your petition?

Les Wallace: I have not contacted the GTC, but I will consider that. Interestingly, one of the comments in my paper was from a secondary school teacher who was quite critical about the school's attitude and the attitude of some teachers towards the reduce, reuse, recycle approach. He said that they were not setting a good example. That is from a teacher, so it has some validity. It is an issue that some teachers seem to take quite seriously and which others do not, even though it is part of the curriculum.

The Convener: That is an area that the committee may wish to contact the GTC about.

10:15

John Wilson (Central Scotland) (SNP): The issue that you have quite rightly identified is an important one for all of us.

The committee papers tell us that there are just under 4,000 registered eco-schools in Scotland and that 40 per cent of those schools have achieved a green flag award. Do you think that that scheme is enough to promote recycling in schools? When a school is awarded a green flag, it is a major event. I have my personal views about what the green flags are being awarded for, but I would like to hear your views before I give my comments.

Les Wallace: I have spoken about this to a few teachers and to people who do work with schools, such as rangers and various voluntary organisations that go into schools. Those awards are quite often double-edged swords. Having eco-schools, a flag system and standards is an improvement and can drive things forward. However, it can also mean that some schools tick a few boxes, get their eco-school status, their green flag and their bronze award or whatever, and leave it there. I have heard from quite a few people that such things can be used as an excuse not to do more.

Like any part of education, environmental education has to have standards and be mandatory. It should have nothing to do with eco-schools. Those standards should be in place whether or not a school is an eco-school. They should be part and parcel of the general educational package. Recycling must be in place, no matter what. I have dealt with someone in Keep Scotland Beautiful, which runs the eco-schools programme, about that issue.

Even schools that have done well and have got the flag could do a wee bit more.

John Wilson: In my experience of the eco-school system, clearing up litter in the playground seems to count more than recycling. However, given that we have eco-schools and the award system, would it not be preferable to tie those into the work of organisations such as the Scottish Wildlife Trust and the others that you referred to earlier? I know that the Jupiter urban wildlife centre in Grangemouth goes out to schools and brings people in to show them what it does about recycling. Would it not be better to make recycling a wider community issue rather than something that is just taught in the school? You can make it mandatory in the school, but the problem is that—as I know from where I live—kids just throw the rubbish in the street because they see their parents doing it. They think that that is the norm, so they do not put their rubbish in the bin.

Les Wallace: That is part of the solution. I have concentrated on the schools element because I think that that is the most critical area. We have had kerbside recycling in Scotland for more than 20 years and we are not even reaching the schools properly. My specific point is to do with schools but I agree that the general educational work that has been done with the public has been poor.

I live in a kerbside recycling area but the information that has been given to me has not been great. The quality and quantity of information is quite derisory. Along with the work that is done in schools, we must consider the package that is presented to the public. The two areas should complement each other. Obviously, if the reduce, reuse, recycle message in schools is backed up with more general campaigning, that would be helpful.

I have with me an example of what I mean: a leaflet that was given to me by my local authority eight, nine or 10 years ago when it rolled out the three kerbside bins scheme. A lot of you will be familiar with the brown, blue and green bins. This is the only information that I can recall the council sending out about that scheme: an eight-page document that was sent out about eight years ago.

The Convener: Would you mind reading out the title of the leaflet for the *Official Report*, so that we have a record of what it is called?

Les Wallace: Certainly. It is entitled “Three Bin Kerbside Recycling Guide—Helping you get it sorted”. It is quite old now. The reason why people should participate in the kerbside recycling scheme is set out in just two paragraphs in this eight-page document. It starts off:

“Why do we need to recycle our waste?”

New European laws have been passed that require the countries who are part of the European Union to lower the amount of waste that they send to landfill.”

That is the first of only two paragraphs in that eight-page document telling the public why they should use the multimillion-pound kerbside recycling scheme that the council was rolling out. I do not think that that is adequate in terms of either the quantity or the quality of the information.

I totally agree with John Wilson that there is a need to expand the general message—the two approaches complement each other.

Angus MacDonald (Falkirk East) (SNP): I place on record the fact that Mr Wallace attended my surgery on Friday to discuss the issue and other environmental issues in the Falkirk district.

I have a lot of sympathy for your petition, Mr Wallace. In your written submission, you refer to the three Rs: reduce, reuse, recycle. I was surprised to learn that there is no legal requirement for Scotland's schools to provide recycling facilities in their playgrounds. I hope that the new legislation will help to address that.

You referred to the situation in 1989, when you started recycling. Surely you recognise that major improvements have been made since then, not least in Falkirk, where the council has met its targets in recent years.

Les Wallace: There could not have been anything but an improvement. We are doing some work in schools now, but when recycling got started in Scotland no such work was being done. In that sense, there has been a big improvement. The situation is better than it was, but I feel that it is still not as good as it should be. Delivery is inconsistent across Scotland and it seems that different local authorities are taking different approaches. I cannot see how that is healthy or the best way of doing things. We really should look at having standard best practice.

From my experience in environmental education, I know that including physical recycling as part of the educational package makes a considerable difference to the provision of effective environmental education to children. Many years ago, I worked on an internship at an education centre in America where we spoke to the children about the need to reduce, reuse and recycle. They came in, we spoke about it and they went away again, but there was no element of getting the children physically involved in recycling at their school, for example, and as far as I am aware that education did not make any difference. I have also been involved in alternative approaches in which getting the children involved in physical recycling has been part of the package and it has worked really well. There is a huge

difference in how effective different forms of environmental education are.

So, yes, we have gone forward—we could not but do that—but we are still way short of where we need to be and the approach is inconsistent. A lot of really good people are involved, such as Jen Barrett at Falkirk Council, who is an outstanding person. Some superb people are involved in the local authorities, but they are sometimes let down. Jen Barrett is fantastic and has been really helpful to me and a lot of schools. There are good people working on the issue, but, like a chain, they are only as strong as the weakest link and, unfortunately, there are a lot of links that have to be dealt with.

Angus MacDonald: Have you shared your American experiences with local authority officers?

Les Wallace: Yes. I have spoken directly to quite a few people on the council as well as to a lot of teachers, and I have tried to share information as much as possible and give it a wider platform. Over the years, I have made a big point of saying that if the physical element of recycling is not included in an educational package it will not work very well. That needs to be stressed.

Children can become fanatical recyclers when they are involved in recycling at a young age. I know a kid who harassed his headmaster to improve recycling in his school. The headmaster had to put up with that, because the kid was in the right. That is true.

However, big differences exist. We need to look at the best forms of education available and ensure that they meet the required standard.

Angus MacDonald: My colleague John Wilson said that more than 40 per cent of schools have green flag status. Do the criteria for that status require schools to have recycling facilities in their playgrounds?

Les Wallace: I am not certain about that. I know of one or two primary schools that do not have full green flag status and, as far as I am aware, they do not have recycling facilities in their playgrounds. A lot of schools in the Falkirk district appear not to have recycling facilities in their playgrounds. If those schools do not have green flag status, I imagine that having such facilities must be part of the criteria.

In that case, the eco-schools approach has not been a big enough driver to make recycling facilities in playgrounds a standard feature in schools. Some schools have a higher eco-school status than others, which creates a wee bit of an inconsistency. Eco-schools are great, but they are not a substitute for mandatory standards.

The Convener: I will let Angus MacDonald back in briefly, but we are a little short of time.

Angus MacDonald: In your preamble, you mentioned “institutional apathy”. What would you do to deal with that?

Les Wallace: Mandatory standards must be set. It must not be possible for certain people in certain local authority departments to throw a spanner in the works for other people.

I will give an example from Falkirk district. I was at a recycling management committee meeting in 1995—kerbside recycling had been going on in Falkirk for six years by then—at which a senior staff member of a council department who was at the table argued against putting effort into educational work on the reduce, reuse and recycle approach in schools, because they felt that talking about litter issues was more of a priority. When I pointed out that those issues were the same thing and that it was not a case of one or the other, that person said that we just had to look at the reluctance to use bins in schools and that such work would be a waste of time. That was procrastination and doing nothing.

The attitude in some quarters is still that recycling is an obligation at best. The commitment in some areas is not at the level that is needed.

The Convener: We are a little short of time, so I ask for short questions and short answers.

Jackson Carlaw (West Scotland) (Con): I will concentrate on the second part of the petition, which calls for a national survey to be undertaken. Who would complete and undertake the survey? What form would it take? Who would compile the information that it produced and to what effect? What would be done with that and in what format would that be? How much would the survey cost and from where would that cost be met?

Les Wallace: My idea is that a comprehensive survey would be conducted by a wide range of partners, including people from local authorities, central Government, non-governmental organisations and education authorities. The survey would look into a multitude of issues. I spoke to somebody about the idea the other week. I think that we would have to look outside Scotland for examples of really effective environmental education, which could be replicated here.

I imagine that the information would be compiled professionally in pretty much the way that information from any other survey is. Some of the information would be quantified numerically, but some would not be—it would be boiled down to statements.

There would be a cost. I cannot tell the committee the cost—that is not my field—but the benefits would be considerably greater than any

cost. If the survey meant that we had a higher standard of environmental education and information that made our existing recycling infrastructure work more effectively, the costs would be minimal compared with the benefits.

10:30

I will give one example. My local authority, Falkirk Council, has one of the best recycling rates in Scotland and one of the most comprehensive kerbside recycling schemes, which has been established for a good few years. However, a waste analysis that was done in the area some years ago found that almost half the material that was going in the green bin was recyclable or compostable. It is estimated that, in Falkirk district, the council is spending £1.2 million on landfill tax just because people do not use the existing recycling and composting facilities. Some people in my local authority are considering a scheme whereby, if a community can increase the recycling and composting rate, half the savings will go back into that community. That is because there is such desperation to improve the way in which the infrastructure is used. As I said, the costs of a survey would be minimal in comparison with the potential benefits.

Adam Ingram: I am interested in your petition, but what evidence do you have that there is institutional apathy throughout the country and a shortfall in schools' performance? I would have thought that in the past 20 years and with the advent of the eco-schools programme, we would have made dramatic improvements on environmental matters and on consciousness of the reduce, reuse, recycle mantra. I have certainly visited more than a few schools where children and teachers are very enthusiastic about picking up all the elements of the eco-school idea.

Les Wallace: To repeat an earlier point, we have moved forward considerably, but that was comparatively easy, because we started from nothing. When I started in kerbside recycling in 1989, the organisation that I worked for, which was an environmental charity—that is why it had the money—had absolutely no plans to develop environmental education in schools and no interest in doing so, which was a disgrace. It took about seven or eight years to get an officer in place.

Adam Ingram: I am sorry to interrupt, but that was then and this is now.

Les Wallace: It is still relevant.

Adam Ingram: We have moved significantly further forward. Where is your evidence that there is a significant problem?

Les Wallace: We have moved significantly further forward, but we are still way behind where we need to be. Why do some schools seem to have recycling facilities in playgrounds when others do not? That is a key indicator of an element of delivering effective environmental education. We have perhaps moved forward, but we still have a massive problem with litter dumping. That has not eased. Recycling rates are not great and there is still a huge problem with children, and parents, dropping litter. So although we have moved forward, it is not far enough. We have to move from eco-schools to having a set standard in all schools, not just eco-schools. I have made that point to Keep Scotland Beautiful, too.

As I say, I have information and quotes, which I will pass to members at the end and which I hope back up some of my points. We are in danger of deluding ourselves if we think that eco-schools are enough—they are great, but they are not enough. That programme is a valuable step forward, but it is not enough.

The Convener: We have time for a quick question from Anne McTaggart.

Anne McTaggart (Glasgow) (Lab): I welcome the petition, which is extremely good. The media have an important role to play. We have focused on schools and education, but I know how much the clean up the streets project by the *Evening Times* in Glasgow involved the community. It is important that we emphasise that, as well as what happens in nurseries and in primary and secondary schools.

Les Wallace: Yes. A lot of good work is done. Last night, I spoke to a grandmother who said that her grandchildren know about reducing, reusing and recycling and about fair trade, but they do not apply that knowledge. They will buy Fairtrade coffee to please her, but they do not buy it for themselves. They do not chuck litter on the street, but they do not reduce, reuse and recycle. They know about those things, but that is not the same as getting involved. There is a big difference.

There are inconsistencies. We have a huge litter problem in Scotland, but litter and fly-tipping issues are treated as separate from the reduce, reuse, recycle approach. They are sometimes even treated as conflicting issues.

I did a litter pick-up event on Saturday during which we tried to encourage people to reduce, reuse and recycle. We tried to divert material away from landfill to recycling, and we were fairly successful in that.

The Convener: I am sorry to cut you short, Mr Wallace. Thank you very much for your evidence and comprehensive answers, which have been useful. You can stay where you are in the

meantime, because we still have to decide on the next steps on the petition.

My view is that the petition is a good one that we should certainly continue. We should write to the Scottish Government to ask for its views, particularly in relation to the Waste (Scotland) Regulations 2012.

John Wilson: I agree that we should continue the petition. As well as writing to the Scottish Government, we should write to the Convention of Scottish Local Authorities to find out what measures it is taking to ensure that we reach the targets that have been set. It would also be useful to contact Zero Waste Scotland, eco-schools Scotland and the General Teaching Council for Scotland to seek their views on the petition and to ask what action they are taking to ensure that the issue of recycling in schools is being addressed. We could ask whether it is part of the eco-schools strategy to ensure that recycling is in place.

Given that the petitioner has referred extensively to Falkirk Council, I suggest that we also write to it to ask for its views on the petition. It is only right to give that local authority the opportunity to respond to the issues that the petitioner has raised.

Adam Ingram: In addition, we should write to Education Scotland, which after all is the schools inspectorate. We might get feedback on how the eco-schools programme has been rolled out.

The Convener: That is a good idea.

Angus MacDonald: With regard to writing to the General Teaching Council for Scotland, we should ask when it expects the outcome of its consultation to be made available.

The Convener: As there are no further comments, are members happy with the course of action that has been suggested?

Members indicated agreement.

The Convener: I thank Mr Wallace for coming to give evidence and for replying to our questions in such a comprehensive way. Obviously, we will keep him up to date with all the developments on his petition.

I suspend the meeting for two minutes to allow Mr Wallace to leave and the Minister for Community Safety and Legal Affairs to take her place.

10:37

Meeting suspended.

10:39

On resuming—

Current Petition

Mosquito Devices (PE1367)

The Convener: The next item of business is oral evidence on PE1367, on banning Mosquito devices. Members have note by the clerk—paper 1. I welcome our witnesses, Roseanna Cunningham, who is the Minister for Community Safety and Legal Affairs, and John Brownlie, who is a policy manager at the Scottish Government's community safety unit.

I invite the minister to make a short opening statement; my colleagues and I will follow it with questions. We are very grateful to you for giving up your time to address the committee today.

Roseanna Cunningham (Minister for Community Safety and Legal Affairs): I thank you for the invitation, convener.

I commend the committee for its significant work in drawing out views on the issue. The committee has been dealing with the petition for more than two years, although I appreciate that personnel have probably changed during that period.

I am impressed by the way in which the petitioner has expressed his argument; he has been constructive and intelligent. The petition is called "Ban Mosquito devices now". In the circumstances it might be useful for me to give, on the record, a little explanation of what is involved in the legislative process, including what could be required to regulate or ban the use of the device.

As members know, legislation is not a quick and easy option for addressing any problem, and should be used only as a last resort. Any decision to legislate should follow the principles of better regulation and should be a proportionate response to the extent of any perceived problem. We should also always look to see whether the same outcome could be achieved through means other than legislation.

There needs to be policy justification, based on good evidence, which would be scrutinised during Parliamentary processes. That justification might also need to stand up to scrutiny from the courts and others, should any challenge be made. In short, the evidence as to the extent of the problem helps us to judge whether or not a particular course of action might be appropriate.

Fergus Ewing was clear when he appeared before the committee in March 2011 that the Scottish Government does not support, and has never supported, use of the devices. Our 2009 framework for tackling antisocial behaviour—

“Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland”—recognised that prevention and early and effective intervention and diversion should be at the heart of dealing with the problem. That is not just the Scottish Government's approach; it is shared by all those who have a role to play in tackling antisocial behaviour. It is supported by local authorities, police, YouthLink Scotland, Action for Children Scotland and others. The approach is supported by those who are tasked with tackling antisocial behaviour.

Following the committee's considerable efforts, it is clear that there are a number of very strong opinions. I suggest, however, that there remains little indication that there is a widespread problem with use of the device, nor is there evidence of the device being used inappropriately. Such things would, I suggest, be crucial for concrete proposals to be formulated. Irrespective of how any ban was to be implemented, evidence as to the extent of its use would be necessary to satisfy Parliament, and perhaps the courts and others, that action of that nature was appropriate, proportionate and targeted. Fergus Ewing previously outlined to the committee the limited evidence on the extent of use of the device across Scotland. It seems that it might be difficult to achieve any response that could be considered proportionate, given that limited information.

It is worth highlighting a notable success that the committee has realised in considering the petition. On 21 February 2012, the inventor of the device advised that he is happy to include a warning sign for devices that are sold to organisations in Scotland, and that displaying the sign would be included in the instructions for using the device. I see that the manufacturer's website now makes it clear that devices that are being shipped to Scotland will come with such a warning sign. That is a significant achievement and I congratulate the committee and petitioner on it.

As I said, prevention and diversion are at the heart of our approach to tackling antisocial behaviour. I am sure that the committee will be well aware of a number of initiatives that the Government is undertaking, so I will not go through a long list of them. If there was a widespread problem with use of the Mosquito device I would expect to be approached through my constituency office, ministerial office or other avenues by people bringing examples to my attention. That simply has not happened. Equally, if there was a widespread problem, the sustained high profile that the committee has given to the issue would have resulted in complaints being raised as awareness of the petition grew. Again, that does not appear to have happened. Given the lack of evidence on the extent of any perceived

problem, I cannot justify further work on the issue, which would divert us from current priority work.

The Convener: Thank you for that very full statement, minister. As you said, this issue has been of great interest to the committee. Once again, thank you for coming along.

I also thank the Scottish Youth Parliament, which has taken a tremendous initiative in this area. It was highly concerned about the issue and colleagues may pick up on some of the points that it has raised.

I will touch on a couple of points, so that we are absolutely clear on the Scottish Government's role. First, do you have the power to ban Mosquito devices, if you so wished?

10:45

Roseanna Cunningham: There seems to be a bit of a question about Parliament's competence in this area. I have not been able to establish to my satisfaction that we would definitely have the power to ban them. That would require to be tested. It is a complex issue and, in the circumstances, I cannot give you a definite yes or no answer. Competence would have to be the first thing that we established if a decision were made that, in principle, that was the way we wished to go but, as I have indicated, we are not of that view at the moment.

The Convener: Thank you, minister. Following on from that answer, have you sought specific legal advice to determine whether you have the power to ban the devices?

Roseanna Cunningham: No. I think that we have not formally requested a decision on that basis because, at the moment, we are putting forward no concrete proposal for advice. We would be asking for advice only in extraordinarily general terms.

The Convener: Given the interest that the committee and the Scottish Youth Parliament have shown in the issue, could you ask for specific legal advice on whether the Scottish Government has the power to ban Mosquito devices?

Roseanna Cunningham: We can ask a general question, but the danger is that we will just get a very general answer that says that it would depend on what we proposed. I can ask the question but, without a detailed proposal, I am not sure what the answer would be worth. I appreciate that it is a bit of a chicken-and-egg scenario. If I am right, it would be a case of asking the Scottish Parliament's legal advisers rather than the Scottish Government's legal advisers about the vires of such a ban, but I will need to clarify that.

The Convener: You have been very honest about the complexity of the issue and the vagueness of the legal position, but we would certainly appreciate a specific response as regards legal advice.

I should have said that Mr Brownlie should feel free to intervene at any time if he has any comments to add.

Roseanna Cunningham: Do not worry—I will call on him if I need to.

The Convener: I see that he is not reluctant to comment. That is fine—I will move on.

Have you met Home Office ministers to discuss a ban or any crossover issues?

Roseanna Cunningham: No.

The Convener: As you know, we have received a letter back from the UK minister, Jeremy Browne, which is in fairly general terms. I just wanted to clarify whether you had had specific discussions.

Roseanna Cunningham: We have not had specific discussions. That goes back to the issue of committing resources to the proposal, which we have not seen as being necessary. There is no bar on my having such a conversation, but it would be in such general terms that it is difficult to see how it would be useful. My guess is that the response would be—as it would be if things were the other way round—“You’ll need to show me the specific thing you’re proposing to do.” We are not minded to ban the devices, which is why we are in a bit of a chicken-and-egg situation.

The Convener: Do you have regular meetings with your equivalents at the Home Office?

Roseanna Cunningham: No.

The Convener: Do you attend any joint ministerial committees at which there is a crossover with Home Office, community safety or legal affairs officials?

Roseanna Cunningham: No. We correspond on specific issues as and when they arise, but we do not have a general clearing-house conversation. I go to Brussels, but I do not go to London.

The Convener: Oh, right.

Roseanna Cunningham: That is partly because justice is—as you would expect—pretty much all devolved. There are only a few occasions on which it is necessary to correspond with Ministry of Justice officials, and those occasions are driven by specifics rather than generalities.

The Convener: I understand that point. You have been very honest.

However, why would a discussion with the Home Office have to be in general terms? Why could it not be about the fact that concerns had been raised with you by a parliamentary committee, so you wished to see whether you could ban Mosquito devices? Why could you not be specific?

Roseanna Cunningham: That is because we do not believe that banning Mosquito devices is the way forward.

The Convener: Oh, right.

Roseanna Cunningham: We look at all the evidence that comes in, and it simply does not stack up enough for us as a Government to go down the legislative route of banning the devices. Parliament has been here before—banning things when there was not much in the way of evidence or in the way of practical examples that we could point to as requiring that ban. It would mean committing resources right from the get-go to something that is not, in my frank view, evidenced sufficiently to justify a legislative course of action.

The Convener: I know that it is always dangerous to bring in someone’s predecessor, but Fergus Ewing gave fairly blunt evidence about the Scottish Government’s unhappiness about Mosquito devices. I certainly inferred from that that there was a move towards looking at banning them.

Roseanna Cunningham: That is equating unhappiness with the use of the devices to going all the way through to legislating against them. The fact of the matter is that the evidence that we have simply does not stack up sufficiently for us to be able to say that this is a problem that requires the big guns of legislative change. If the evidence changes, that may result in a change of view on the part of Government, but at present and as currently evidenced, it would be difficult to justify a legislative solution. That is not to say that we think that using the device is the right thing to do. There are a great many things that I do not think are the right things to do but we cannot legislate to ban every single one of them unless there is evidence that that is the way forward.

John Wilson: The convener has already referred to the evidence session that we had with Fergus Ewing when he was the minister dealing with this issue. I am one of the members of this committee who has straddled the previous session and this session; I have had continuous membership of this committee for almost five years. My understanding of the commitment that we got from the previous minister was that he would certainly enter into dialogue, potentially with the United Kingdom Government, to look at how we can act in a UK-wide initiative on use of the Mosquito devices.

Although the petition came in from Andrew Deans on behalf of the Scottish Youth Parliament, we have heard evidence from various organisations, including the National Autistic Society, which clearly claimed that this a discriminatory use of a device against certain sections of the community. As I understand it, the current legislation that could be used to ban the use of the devices is the Environmental Protection Act 1990, which is UK legislation. Is that legislation still in place?

John Brownlie (Scottish Government): That was certainly part of the discussion when Fergus Ewing was in front of the committee in a previous evidence session—Cathie Craigie asked a question about noise nuisance provisions. Our understanding is that using those provisions would not result in a nationwide ban. As far as I am aware, they are still in place and can still be used, but are very much dependent on circumstances. For example, if somebody was to investigate a complaint under the provisions, they would measure how loud the noise was, how long it went on for, where it was located, where it was being heard and so on.

To answer your first point, in terms of dialogue with the UK Government, Fergus Ewing gave a commitment that if any meeting came up between him and our colleagues down south, the Mosquito would be put on the agenda. What happened later that year—as I have outlined in previous letters to the committee—was that a number of my colleagues and I went down to London to discuss anti-social behaviour measures with colleagues from the Home Office. That was fed back to the committee and is also reflected in the letter from Jeremy Browne MP.

John Wilson: Is the Scottish Government prepared to issue clear guidance to local authorities about the use of Mosquito devices? The Convention of Scottish Local Authorities' latest response to the committee was to refer us back to the Scottish Government. Has there been any discussion with COSLA or local authorities about the use of Mosquito devices or what action they can take to prohibit them?

Roseanna Cunningham: As a minister, I have not been personally involved in any such discussions, although that does not necessarily mean that there have not been such conversations.

I understand that practitioner guidance is available to local authorities, but I cannot speak to the extent to which that covers your concerns. As far as I am aware, local authorities are capable of doing something—I think that John Brownlie suggested that the UK legislation that dates from 1990 allows local authority action if a specific complaint is raised. That would be dealt with under

what are generically known as the noise nuisance laws, which are entirely a matter for individual local authorities. Local authority practice is not uniform; it will change from area to area, in response to whatever is flagged up as a serious issue.

I have some figures in my briefing pack—which I will look for—but the number of local authorities that have registered any such issue is very small. That takes us back to there not being a body of evidence that suggests that Mosquito devices are a significant problem. That lack of evidence calls into question whether moves towards clearing the way for legislation on them would be an appropriate use of Government resources.

I have now found the figures—I am not sure whether the committee has this information. Out of 32 local authorities, 20 responded that they are aware of the existence of Mosquito devices, of which six indicated that they are aware of the devices being used in their areas, although in three cases it was historical, rather than current use. Ten authorities indicated that they were not aware of the devices being used, and four did not answer. Three local authorities have expressed a public view about Mosquito devices, which means that although 20 local authorities are aware of the existence of the device, only three felt that issuing a public view was appropriate. Seven said that they had not expressed a public view and 10 authorities did not answer. Only one local authority said that concerns had been expressed to it. That again suggests that there simply does not appear to be the groundswell of evidence that would be needed for such legislation to be considered.

John Wilson: When was that consultation carried out?

Roseanna Cunningham: John Brownlie has advised me that it was carried out in March 2011.

John Wilson: I asked that question because, in your opening statement, you quite rightly identified that the manufacturer of the Mosquito device, when he gave evidence earlier this year, indicated that he would send a cautionary note with the device for anyone who decides to install it. Up until that point, it was difficult to determine whether or not the devices were being used by shopkeepers and others. In the evidence that we heard, there was suspicion that even private residents were using the device to deter young people from hanging about outside their houses, including in nearby lanes. With the cautionary note, and if the purchasers decide to put up the warning poster, it will become more evident that the device is being used.

I think that your consultation responses indicated that it is difficult for local authorities to know who uses the device, because there is no

need for any shopkeeper or individual citizen to register its use. How do we therefore identify where the devices are being used and the nuisance that they cause? We heard evidence not only from the National Autistic Society but from individuals with young children under the age of three or four, who could be affected by the use of Mosquito devices in shopping malls and other areas. How can we get to a position whereby we know who uses the devices?

11:00

Roseanna Cunningham: Some people may use the device without its being widely known. I can speak on the issue only from personal experience as a member of the Scottish Parliament, because I get many complaints about groups of young people hanging around. The general suspicion is that they are up to no good, but in fact most of them are not doing anything at all. I have never had a complaint from a young person that somebody was using the Mosquito device to prevent young people from hanging about.

I appreciate what John Wilson said about small children probably not being able to articulate their concerns, but the devices are audible to people until they are in their late teens or early 20s. I am simply not aware of any complaints or evidence that they are widely used. The few occasions when one might assume that there is evidence that they may be being used still do not amount, for me, to a case for legislating against their use. There is no evidence at all that they are being used to anything like the extent about which concerns have been expressed.

The Convener: Can you send us the survey that you mentioned earlier, minister?

Roseanna Cunningham: Absolutely.

The Convener: Why were the views of local authorities sought? You indicated that you do not wish to ban the devices, so why was the survey carried out?

Roseanna Cunningham: I think that it was just an attempt to gather useful evidence for the on-going conversation about the device, particularly with the Public Petitions Committee, because we needed to get some sense of whether there might be evidence out there of widespread use of the device. The first port of call for such evidence would be the local authorities, because they are responsible for noise nuisance issues.

The Convener: I understand that. On evidence of whether local authorities are aware of the devices being used, we would need to overlay the sales figures for Mosquito devices. Some local authorities will not have any such devices in their

areas. However, the Scottish Youth Parliament is in no doubt that the use of Mosquito devices is a problem. For us, that is evidence of concern from a democratic, Scotland-wide body.

Roseanna Cunningham: I understand that, but it comes down to whether we have sufficient evidence to mandate the use of Government and parliamentary resources to introduce legislation on the issue, which is the nuclear option, if you like, in terms of any activity in which we might wish to see change.

Anne McTaggart: Good morning, minister. Given that young people in our constituencies generally do not complain about what is happening in their areas and taking on board the Scottish Youth Parliament's evidence, do you think that the Scottish Government would do anything differently if the devices affected elderly people?

Roseanna Cunningham: I would still look for evidence that there was a significant problem. If occasional random reporting was to mandate legislation in every case on every issue, we would be constantly introducing legislation. That cannot be the way forward for the Parliament. I refer the committee to occasions when the Parliament has legislated in that way; I can tell you that it has attracted massive opprobrium. After all, you are effectively legislating against something that either does not exist or exists in such tiny numbers that using legislation to deal with it looks like using a nuclear bomb to crack a nut.

I come back to the point that this is all about evidence. If any group of people is being seriously impacted on by any activity, it can bring it to Government and Parliament. We will always look carefully at the evidence and consider whether legislation is appropriate. However, given the information that we have on this issue, our view is that legislation is not justified.

Anne McTaggart: Is the minister willing to meet the Scottish Youth Parliament to discuss the issue further, given its grave concerns and the fact that it has submitted this petition?

Roseanna Cunningham: I am always available to meet people and organisations that want to raise issues within my portfolio remit and will be very happy to meet the Scottish Youth Parliament, if it wishes to speak to me.

Angus MacDonald: The convener mentioned the response from the Minister for Crime Prevention, Jeremy Browne, which suggests that the Home Office in London has little appetite for prohibiting the Mosquito device. However, he notes "public concerns" and states that

"the legal position is kept under review."

You said earlier that the Scottish Government consulted local authorities last year. Has the

Scottish Government sought advice on European convention on human rights implications?

Roseanna Cunningham: Obviously, we have to consider ECHR implications in whatever we do and irrespective of how we want to proceed. ECHR regulates interference by the state and state authorities with regard to individuals' rights and the Human Rights Act 1998, and public authorities cannot act incompatibly with the convention. However, as I understand it, use of this device is not in breach of ECHR and there does not appear to be sufficient evidence of harm to justify our intervention. In any case, we would equally have to justify that intervention under ECHR, which in a sense covers both sides of the equation.

The Convener: Further to my earlier points, have you sought specific legal advice to confirm whether Mosquito devices are or are not a breach of ECHR?

Roseanna Cunningham: Our information is that the use of devices by private individuals or companies is not a breach of ECHR. As every member will know, trying to prejudge what specifically might be considered a breach is probably beyond every single one of us, but our best advice says that use of the devices is not a breach of human rights.

My point is that there is another side to this—ECHR regulates not just one side of an issue but all of it. I expect that if we tried to interfere there might well be an argument from the other side. Our advice at the moment is that using the devices is not an ECHR breach, but that would need to be tested in court to find out whether the position is true. There has been no such test at UK level.

The Convener: I am sorry to make heavy weather of this, minister, but just to ensure that the committee is absolutely clear can you tell us whether you have sought specific legal advice on the ECHR issues in relation to Mosquito devices, or have you simply received informal advice from your officials? If the latter, are those officials qualified in European law?

Roseanna Cunningham: It all comes back to the extent to which the Government will expend resources on the issue. The Equality and Human Rights Commission stated that it had no fully defined position on the issue. I am going on the best advice that we have in general terms. We have not formulated a specific question to the lawyers about ECHR any more than we have about the other issues that we discussed previously, but that is because we have no specific intention to legislate. We are going round in circles slightly, because without a specific intention to legislate there is no specific question to put to lawyers about either competency or ECHR.

The Convener: That is very clear. Before we took evidence today, we wished to get to the bottom of a number of issues. You have made it clear that the Government does not wish to ban the devices and you have given a general account of the advice that you have been given. That is what the committee wanted to clarify, so thank you for providing clarification.

Adam Ingram: Can the minister confirm that irresponsible use of the Mosquito device—however that is defined—is covered by an appropriate regulatory regime?

Roseanna Cunningham: Anything that involves noise, however it is constituted, could be covered by local authorities through their noise nuisance and environmental health department. The point is that that power is not being used.

If local authorities felt that that was not a functioning way to move forward, I presume that they would ask us to reconsider the position, but we are nowhere near that stage. I am not even aware that any local authority has attempted to progress, or has been required to progress, anything through its noise nuisance department. Most incidents that are addressed by those departments are dealt with in an informal way that just involves getting people to behave.

Adam Ingram: Have you not received any complaints, or any volume of complaints?

Roseanna Cunningham: There has been nothing.

Adam Ingram: Have local authorities flagged up a problem?

Roseanna Cunningham: No. There has been nothing. That may be because local authorities have had nothing flagged up to them and they do not require to use the noise nuisance department, but those departments are the first stop for handling such issues and there is no indication that that has been necessary.

Adam Ingram: If the problem is hidden to some extent, there might be an issue that has not been identified and reported. Is the regulatory regime in a shape that could deal with the irresponsible use of the Mosquito device?

John Brownlie: I am sure that committee members remember that when Fergus Ewing attended the committee there was discussion of the noise nuisance provisions. One question that was asked was whether a form of test purchasing, as it was described, would be a way forward. As I understand it, if a young person were to make a complaint, such an approach would involve the noise team taking along another young person to verify that there is a sound.

I discussed the matter with a noise nuisance team leader, who said that nothing would prevent that from happening but, equally, he was keen to point out that a properly calibrated sound meter may in fact pick up the sound anyway, even if the person who is using the meter and measuring the sound cannot hear it. The problem may not necessarily be completely hidden, as there are ways in which the noise team could identify it.

Adam Ingram: You are confident that the current regulatory regime would be able to deal with any issues that arise from use of the Mosquito device.

Roseanna Cunningham: The matter would fall under the general terms of noise nuisance regulations. It would not sit separately or apart from those, so the current regulations could be used if there was evidence that there was an issue.

I guess that what John Brownlie is saying is that it is open to any local authority to take its testing machine into any premises, mall, shopping centre or whatever and establish whether the devices are being used. To be honest, the evidence of our eyes when we go around suggests that they are not.

The Convener: For the sake of completeness, I should mention that I understand that the issue was also raised in the European Parliament and that there was some discussion about the use of Mosquito devices in a wider European context. I understand that the children's commissioner has also been involved and, as I am sure that you are aware, the members of the Scottish Youth Parliament believe that the devices discriminate against a particular group in society; they have concerns about how the use of the devices might breach the ECHR, which we touched on earlier. That is the sort of evidence base that we have been focusing on.

Roseanna Cunningham: I am not aware of anything that might be happening at the European Parliament level, so I cannot comment on that.

The Convener: I thank the minister and Mr Brownlie for coming along and being clear about what the Government will do. Clearly, this is an issue that has been exercising the committee for some time. We have agreed to discuss our next steps in private.

I suspend the meeting to allow our witnesses to leave.

11:16

Meeting suspended.

11:17

On resuming—

New Petition

Deceased's Body (Deceased's Estate) (PE1442)

The Convener: Our next new petition is PE1442, by Douglas Reid, on the body upon death becoming part of the estate. I welcome our witnesses, Douglas Reid, Matthew Turner and Leona Turner, and thank them for coming along to the meeting. I also welcome Helen Eadie.

My intention is to ask Douglas Reid to kick off with a five-minute introduction, followed by some words from Helen Eadie. After that, I will ask my colleagues to ask questions about the petition.

Douglas Reid: Good morning. Scotland is one of the most enlightened societies in the world, and its laws reflect that. However, from time to time, something does not quite add up. I feel sure that the case of the status of the body upon death must have been an oversight or some problem to do with the interpretation of legal language. Whatever the case, like everyone I have spoken to about the matter, I was astounded to find out that, in the 21st century, I could make everyone aware of my wishes for the disposal of my body and write them down in my last will and testament, but they could still be overruled.

Since starting this petition, I have met people who have encountered various forms of alterations to their relatives' wishes, such as cremation rather than burial and vice versa; people not being buried at sea or at a forestry site; and people's remains not being donated to medical science. People's last wishes are wide and varied, but they should be carried out.

In this modern age, undertakers are equipped to deal with any request. I have a photograph here of a hearse that is being pulled by a lovely, big motorcycle, which shows the extent to which they can become involved in people's wishes. They are considering resomation to answer the concerns of the establishment and to deal with the wishes of people who do not want to pollute the atmosphere, even in death, and they are willing to cover the multiplicity of religious denominations in our cosmopolitan population.

The donation of the body to anatomical studies is possibly the most thoroughly secure option, as there are checks and balances throughout. That indicates the fulfilling of a person's last wish. They have filled out the requisite forms and, upon death, the body must be put in a temperature-controlled state as quickly as possible. The embalming is a

longer-term process, and the aftercare is the ultimate in professionalism.

My request is not so much a petition. It is not like a campaign on behalf of policies on wages, better land or housing. People do not talk openly about death, but, as I did when I found out that my last will and desires could be overruled because of an unfortunate omission in law, someone has to speak out.

I urge your good selves to put in motion the required legal procedures to amend the law accordingly. Thank you.

The Convener: Thank you very much, Mr Reid.

Helen Eadie (Cowdenbeath) (Lab): I am pleased to be here this morning to support Mr Reid, whom I have known for 20-plus years. We have been good friends in that period but, apart from that friendship and my long-standing commitment to him, I believe that what he is asking for is absolutely right.

When I think back to my time on the Health and Sport Committee, I wish that I had known about this issue when we were discussing the Certification of Death (Scotland) Bill. I apologise to Mr Reid for not thinking about the issue at that time. If I had known about it, I certainly would have lodged some amendments to the bill.

I hope that the committee finds the same merit as I do in what Mr Reid proposes. I think that it is an individual's right to be able to dispose of their body as they wish. I cannot imagine any one of us round the table who would wish to overlook or devalue in any way the advantages that come from medical research and the disposal of a body in that way. It is my pleasure to give my absolute support this morning to Mr Reid and his petition, and to help him in every way that I possibly can, as I have done throughout the process.

The Convener: I thank Helen Eadie for coming along and giving up her time to support the petition. Before I put some questions to Mr Reid, I should emphasise to Matthew Turner and Leona Turner that, if they wish to ask any questions or make any points, they should feel free to do so by raising their hands as if they were in school.

Mr Reid, your petition is very interesting. Have you any particular evidence that, throughout Scotland, nearest relatives have changed the wishes in a deceased person's will with regard to body donation?

Douglas Reid: As I said, people want to do something about death, but usually when it is too late. They say, "Oh, I wish I had done that." They will talk about it, but they will not stick up their hand and say, "Count me in." Even after the event, people tend to go away and say, "I'll try and do that."

For example, the figures on wills show that, unfortunately, less than 50 per cent of people have made a will. There are countless advertisements in the papers and all sorts of media forums to try to entice people to make wills through various professional bodies. I even had a telephone call last night from an international welfare organisation for animals to try to get me to put a small endowment towards saving wild animals.

As Helen Eadie mentioned, there are no figures; there are only my studies over the past two years since the issue arose initially.

On medical research and education, as Helen Eadie has said it is important to ensure that we have the requisite number of doctors and other medical professionals but they need human tissue to work on. I have set out my wishes, and my family is well aware of them. However, if human tissue is not dealt with immediately, it is of no use to medical science. Unfortunately, that has happened. The universities of Edinburgh and Glasgow would take all the human bodies that they could get. Thankfully, due to Professor Sue Black's influence, Dundee is pretty much on an even keel. The figures for Aberdeen and St Andrews are not so high.

There are roughly 50,000 deaths a year in Scotland. The universities need from 3 to 5 per cent of bodies to do their research. About 975 students in Scotland need human tissue to work on, not to mention—as the universities have told me—the overseas students who come to Britain, because their countries do not allow human tissue to be used, and earn income for Scotland. They come here, get trained—which is a marvellous thing—and go back and save lives in their own countries. We have helped their education but we have also got the revenue from them, or at least the universities have. The general public are still very apprehensive about talking about death and "What have you done about Auntie Maisie's disposal?" and so on.

The Convener: I think that members would all agree that it is important that people leave a will, because of the great danger of dying intestate. I think that the committee understands that it is important that people make some provision for organ donation to help medical science. The issue that I was raising was whether there was any evidence that people's wishes have been changed after their death. That is probably the key point as far as your petition is concerned, is it not?

Douglas Reid: To repeat what I have said, convener, I know nothing other than what people have told me. As Helen Eadie said, people did not know that their last wishes could be changed. It must have been an oversight.

John Wilson: Good morning, Mr Reid, Matthew and Leona. This is a useful petition because the issue is quite relevant for me. Earlier this year, I was approached by a constituent at my surgery to sign off the medical forms for the individual to donate their body to medical science. We spent some time discussing the issue before I signed the paperwork. The difficulty was that there was a dispute within the family, and my constituent had had to wait for an appropriate time to get all the family together to express her wishes about what she wanted to happen to her body after she died. Despite that, some family members were still concerned and indicated that they would not adhere to her wish to donate her body.

Your petition has brought focus to the issue of a person's last wishes and whether, even if they have included those wishes in their will, the next of kin has to adhere to the terms of that will. The body is not part of the estate, and the next of kin can deal with the remains as they see fit.

I accept that the issue about donating the body to medical science is clear, but I seek clarification from you. In your opening remarks, you referred to several ways in which the body could be dealt with, including burial at sea, woodland burial and cremation. All those come with costs attached. Someone may say that they want to be buried in a £10,000 coffin, but the issue is how that is dealt with if the family or the people who are dealing with the burial cannot afford to carry out the last wishes of the individual.

We have to bear it in mind that, although someone may wish to have their body disposed of in a particular way, burial at sea is very cumbersome, expensive and fraught with legal pitfalls. In terms of your petition, how do we deal with those other issues that have been raised, bearing in mind that we may be putting an onus on family members that may be financially burdensome?

11:30

Douglas Reid: I appreciate what you are saying, but I do not think that it is an answer to itemise things. For example, the items that are definitely in a will that are unalterable can be a multiplicity of things that, regardless of body disposal, can leave a family very much in debt. Most of the people whom I have spoken to have thought the thing out quite well and have provided finances to account for their particular request. That issue has certainly not been raised with me in the two years that I have been discussing this.

Obviously, I could not and would not attempt to cover every type of financial eventuality, but why is a person's body not treated like everything else that is attached to a person's estate? Whatever

happens within that particular estate would be covered by the respective laws associated with those things, whether that be in relation to property, material things, antiques or whatever—you name it, it would be covered—but at least the body would also be covered.

Bear it in mind, if I may return to my original point, that I am not here to defend myself. If I am in a state of life ending, I cannot defend myself but I will have put everything in print. All that I desire is for my wishes to be carried out.

Jackson Carlaw: Mr Reid, good morning. I think that your petition is underpinned with a very noble object in mind but, never mind the cost aspect of it, I am not necessarily persuaded that the current arrangement is not sensible and practical. I would like to ask you in what sense you think that it is not.

I anticipate that most relatives and executors of estates would do all that they could to honour the wishes of the person who had died. However, supposing that the individual died abroad—or died at sea or died up a mountain where it took a fortnight to recover the body—it may not be practical to honour in law the request within the deceased's last will and testament regarding the disposal of their body. It seems to me that the current arrangement obviously obtains for those administered with the task. Yes, they must do all that they can to honour the sentiment of the individual in question, but they must have some regard to whether that objective is in fact practicable. To create a law that mandated a responsibility to do exactly what the deceased had requested may simply not be practicable.

Douglas Reid: Again, those thoughts and practicalities are there. For example, at the moment my family are fully aware of my desires, but they might become involved emotionally or otherwise with others who might be very persuasive and influential in making them alter their views. Indeed, Mr Wilson has just said that he has been involved with a family that was betwixt and between. That is the point that concerns me. Betwixt and between they may be, but it is not their body—it is my body.

Many years ago, when I was involved in the trade union movement, a lady delegate died in Malta and we brought her back to Britain to fulfil her wishes. We did that because we knew what her wishes were. If a request is practical, the thing will be done; if it is not, it cannot be done.

Coming right back to the bone of it, I do not think that, when the legislation on wills was first drawn up—I do not know when that was—and people were entitled to make a will that was to be adhered to, we had overseas travel, flights, cruises, emigration and all the rest of it. Back in

the Australian colonies, if somebody was a criminal and died in Australia, did they transport them back to Britain to get buried in Perth cemetery? Excuse my laughing. Now that I have a vote and rights as an individual, I can only see it as an omission that my basic rights might not be fulfilled.

I accept the medical research aspect of it, which Mr Wilson alluded to, and that there may be circumstances in which someone's body will not go to medical science either because of how they died or because of other circumstances. The university will not accept a body unless it is whole, intact and received in a limited time. I accept that limitation.

A thought came into my mind about expense. I am a Scotsman and, I like to think, a good patriot. When it occurred to me, some of my colleagues said, "Trust you, Dougie." When someone donates their body to medical science, they do not pay for the cremation—that is done for them, so there is a saving to be made.

The Convener: Thank you for that. As no other committee members want to ask questions and Matthew and Leona do not wish to add anything, we move to the next section of the meeting in which we will consider how we will deal with the petition. Your evidence and Helen Eadie's will be very helpful as we consider our next steps.

I think that it is worth continuing the petition and asking the Scottish Government for its views. We could also ask for the views of university anatomy departments and Her Majesty's Inspector of Anatomy for Scotland. Does any committee member have any other views or suggestions?

John Wilson: The Scottish Law Commission looked at a report on the estate of the deceased person in 2009. I suggest that we write to the commission, asking for its views on the petition and whether it thinks that it would be appropriate to consider some of the issues that have been raised by Mr Reid today.

The Convener: Are members agreed on that course of action?

Members indicated agreement.

The Convener: We will continue the petition and seek advice from various organisations. We will keep you up to date with developments, Mr Reid. I thank you, Matthew, Leona and Helen Eadie for coming along.

I suspend the meeting to allow the witnesses to leave.

11:39

Meeting suspended.

11:40

On resuming—

Current Petitions

Institutional Child Abuse (Victims' Forum and Compensation) (PE1351)

The Convener: Agenda item 5 is consideration of current petitions. There are two current petitions for consideration, the first of which is PE1351, by Chris Daly and Helen Holland, on a time for all to be heard forum. Members have a note by the clerk in paper 5 and submissions. I invite contributions from members.

John Wilson: The petitioners have submitted a series of questions. [*Interruption.*] Have they not?

The Convener: We have had responses to the questions.

John Wilson: Right. Sorry, convener. I have nothing to add.

The Convener: We have the Scottish Government's responses to the questions. Does any committee member wish to add any points at this stage? No?

The petition is thoughtful. Certainly, it would be useful to seek further information on it. We might write to the centre for excellence for looked-after children in Scotland and ask it to summarise the work that has taken place on the interaction on the issue and to confirm the timescales for future work.

Some plenary slots will be available in the chamber in the new year for the discussion of petition issues, but it is probably best to get information from the clerks about petitions that we could debate. However, that is an option for the committee on a number of the petitions that we are considering. I flag that up in public so that all members are aware of the option. It is useful that we know that other committees have interests in certain petitions. We need to make an early decision, perhaps at the next committee meeting, about ways forward.

Adam Ingram: This is a complex area, with which I have had dealings. Each element of it almost stands alone. There is the aspect of the time for all to be heard forum, whereby people are looking for the space to describe their experience. However, that can be quite separate from the issue of compensation or reparation for the difficulties that they have faced throughout their lives. The different elements are interrelated, but they can be dealt with on an individual basis. It is therefore important that we get the summation from the centre for excellence to see where we are with each of the elements. That would help the

committee to focus on which areas we need to take forward.

The Convener: That is a good point. If no other member wishes to contribute, is the committee happy with our suggestion on the way forward?

Members *indicated agreement.*

Sports Facilities (PE1434)

The Convener: The second current petition is PE1434, by Nairn McDonald, on additional funding for sports facilities and a minimum level of facilities. Members have a note by the clerk on the petition, which is paper 6, and the submission. It is strongly recommended that we consider referring the petition to the Health and Sport Committee under rule 15.6.2, because that committee is undertaking an inquiry into community sport, to which the petition would seem to be relevant. Do members agree that we should pass the petition to that committee?

Members *indicated agreement.*

The Convener: As the committee agreed under item 2, we now move into private session.

11:44

Meeting continued in private until 12:06.

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