



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 17 September 2013

Session 4

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.scottish.parliament.uk or by contacting Public Information on 0131 348 5000

Tuesday 17 September 2013

CONTENTS

	Col.
CURRENT PETITION	1607
Judiciary (Register of Interests) (PE1458)	1607
NEW PETITIONS	1623
Single-room Hospitals (Isolation) (PE1482)	1623
Independence Referendum (Bilingual Question) (PE1483)	1633
Alzheimer's and Dementia Awareness (PE1480)	1648
CURRENT PETITIONS	1658
School Bus Safety (PE1098 and PE1223)	1658
Betting and Loan Shops (Deprived Areas) (PE1439).....	1659
Flood Insurance (PE1441).....	1660
Miscarriage (Causes) (PE1443)	1660
Organ Transplantation (Cancer Risk) (PE1448)	1661
Hyperemesis Specialist Nurses (PE1454)	1662
Vacant Land in Private Ownership (PE1465).....	1662
A90 Dualling Project (PE1478).....	1664
WITNESS EXPENSES	1665

PUBLIC PETITIONS COMMITTEE

15th Meeting 2013, Session 4

CONVENER

*David Stewart (Highlands and Islands) (Lab)

DEPUTY CONVENER

*Chic Brodie (South Scotland) (SNP)

COMMITTEE MEMBERS

*Jackson Carlaw (West Scotland) (Con)

*Angus MacDonald (Falkirk East) (SNP)

*Anne McTaggart (Glasgow) (Lab)

*David Torrance (Kirkcaldy) (SNP)

*John Wilson (Central Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Moi Ali (Judicial Complaints Reviewer)

Graeme Dey (Angus South) (SNP)

Professor Rob Dunbar (University of Edinburgh)

Alex Fergusson (Galloway and West Dumfries) (Con)

The Rev Douglas Irving

Amanda Kopel (Frank Kopel Alzheimer's Awareness Campaign)

Dr Susan Logie (Susan Carnegie Centre, Stracathro Hospital)

John Macleod

Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

John Womersley

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 17 September 2013

[The Convener *opened the meeting at 09:30*]

Current Petition

Judiciary (Register of Interests) (PE1458)

The Convener (David Stewart): Good morning, everyone. I welcome you all to this meeting of the Public Petitions Committee. As always, I ask everyone to turn off their mobile phones and electronic devices, as they interfere with our sound systems.

Agenda item 1 is consideration of petition PE1458, by Peter Cherbi, on a register of interests for members of Scotland's judiciary. As previously agreed, the committee will take evidence from Moi Ali, who is the Judicial Complaints Reviewer.

Members have a note by the clerk, which is paper 1, and submissions. Members should note that there is a late submission from Peter Cherbi, which was circulated on Friday. Hard copies of it have been placed on members' desks.

I welcome Moi Ali to the meeting. Thanks very much for coming along. The committee is grateful for the opportunity to put questions and points to you. We will not ask for an opening statement; instead, I will ask you a few questions, after which my colleagues will ask you questions. We will then decide what the next steps on the petition should be.

I have a straightforward question to set the scene. What is the Judicial Complaints Reviewer's role?

Moi Ali (Judicial Complaints Reviewer): The role is new. I am the first Judicial Complaints Reviewer, and I have just finished my second year in office. I suppose that I am a bit like an ombudsman without the teeth. I can review the Judicial Office for Scotland's handling of complaints, but I do not have an ombudsman's powers to make any determination other than that the complaint was or was not handled in accordance with the rules. The role is therefore limited.

The role is part time. On average, it is three days a month; in fact, it is a maximum of three days a month. I operate on a shoestring budget of £2,000 a year—members look impressed by that. I think that I am coming up to complaint number 54. The start-up was slow, but things have built up during the second year.

The Convener: The explanation of your role is useful.

There has been coverage of the issue that the petition raises. One of the judiciary's arguments is that a register is not needed because there are already strong constraints in the system, such as the judicial oath. How strong is that argument? Is the judicial oath, among the other devices that exist to protect the public, strong enough?

Moi Ali: From what the people who have written to me have said, it is clear that it is not. I have not received a large number of complaints, so I stress that we are not talking about large numbers of people, but issues have been raised with me to do with undeclared family relationships, for example, and concerns have been raised with me about membership of a variety of organisations.

It is important to separate judicial independence, which we all treasure—it is a cornerstone of democracy—and accountability. However, the two go hand in hand, and having a clear, published register of interests sits above that. The more open we can be, the better. A register is another strand that would sit above the judicial oath and which would list things that it might not cover, such as family relationships, membership of organisations that might be seen as incompatible, and friendships.

There is a wide range of issues and it is difficult to itemise them all. Issues have been raised with me through complaints. Members of the public have felt that a host of things are undeclared, that unless we go out and look for them, we will not necessarily know about them, and that, if a register of interests was published, people could simply refer to one point and assure themselves that, if a recusal was necessary, they would have the information to ask for that if it did not happen automatically.

Members of the judiciary do recuse themselves as appropriate. The issue is that sometimes members of the public perceive there to be a conflict of interest and, without a register of interests, it is really difficult to say, "Well, actually, here it is on the register and this is what we think may be an issue."

The Convener: One of the points that the petitioner makes is—to paraphrase him—that there are registers of interests for ministers, members of the Scottish Parliament and members of Parliament and, if that is good enough for politicians, why is it not good enough for the judiciary? How do you respond to that?

Moi Ali: I agree with that. In the 21st century, pretty much everyone is expected to register their interests. I would be hard pressed to think of people who are not expected to register their interests in some form or other. If anything, the

move is towards even more transparency. In the past, a register of interests would be locked away in a cabinet, whereas today, virtually all organisations publish such registers on the internet and they are easily and widely available. The public trend is towards more and more openness and accessibility.

Accountability has to go hand in hand with judicial independence. Accountability is really about saying, "These are what our interests are." Everybody else declares them, so it is difficult to argue that that should not happen for one sector of society.

The Convener: I now invite my colleagues to ask questions, starting with Chic Brodie.

Chic Brodie (South Scotland) (SNP): Good morning. Before I get to the main meat of my questions, I raise the fact that you say that your budget is £2,000—

Moi Ali: Yes.

Chic Brodie: And you have had 54 complaints.

Moi Ali: Yes—over two years.

Chic Brodie: Clearly, £2,000 is a problem. Is that a problem in relation to the number of complaints that you get? Might you get more if there was more substance behind you? I am not saying that there is no substance behind your job; I am talking about being able to raise the job's profile and make people aware of the role much more widely.

Moi Ali: The answer is probably not, because the complaints system is structured such that people have to make a complaint through the Judicial Office for Scotland and, when they get the final letter from the Judicial Office, it refers to me as the reviewer. People who have gone through the complaints system will be aware that I exist. Having a larger budget would make my life easier, but I do not think that it would have any impact on the number of complaints that I receive. That number is what it is.

Chic Brodie: I understand that you cannot discuss specific complaints. However, you have referred to various cases in which complaints have been raised that have suggested bias in the judiciary. To get a feel for the extent of any problem, it might be useful if we could understand the general nature of the complaints that have been made that suggest bias. Can you tell us about that?

Moi Ali: I can. I asked three people who made such complaints to supply me with a paragraph summarising the complaint and a paragraph on their views on whether a register of interests would have helped.

I have used the letters X and Y instead of names. I will quickly run through the complaints for you in anonymised form. I will call the first person who made a complaint Mr A. He says—these are his words, not mine:

"Basically in a nutshell I am saying judges in Scotland are routinely sitting on cases when they ought not to. Regarding my own case, had the two judges Lords X and Y declared their interests in my case, I would have definitely asked them to recuse themselves. By not doing so themselves, they have brought the judiciary into disrepute...

A register of interest would have thrown up in my own case that Judges are sitting in judgement of their father's case and that Prosecutors (Now Judges) are routinely sitting in judgement of their own cases at appeal levels when according to the Dean Of Faculty, natural justice demands a judge cannot judge his own cause".

Mr A says that

"A classic example is the name changes they make to hide their links to other judges".

He says that Lord X was the father of Lord Y and that Lord A and Lord B are brothers. He then says:

"Only recently I have been contacted by a 'Joe Bloggs' who tells me that when he took a judicial review against 'X Organisation' for refusing to refer his case back to the appeal court, his judicial review was presided over by the brother of the judge that originally rejected his appeal ... Had Mr 'Bloggs' been aware of this at the time of his judicial review, he assures me he would have asked Lord X to recuse himself from his judicial review ... he tells me he never thought of looking at any kind of relationship between judges and in any event they had different names so how was he expected to relate them to each other."

That is one example, concerning family relationships. A second example is the case of Mr C, who has concerns about social relationships between members of the judiciary. He says:

"In my opinion, there is no transparency within the judiciary, making a judicial register of interests essential to enable public confidence to be improved. This would give anyone appearing in a court case the necessary information, if necessary, to request a judge recuse himself from a case where there can be demonstrated a conflict of interest, if the judge has not already taken that action himself. This register of interests should also cover;

1) Attendance at social activities by a judge, which are organised and also attended by a party in a court case over which he [the judge] is presiding. Impartiality is essential to the proper discharge of the judicial office and to improve public confidence."

He then talks about how special or personal friendships can have an impact.

The third example that I have brought is from an organisation that wrote to me to seek a review. It feels that a member of the judiciary's membership of another organisation is incompatible with their judicial role. It says:

"A register of interests, in small part, addresses this matter. We are of the opinion that any register of interests, if it has to serve public interest, must incorporate legislation/provisions which allows declared interests of the

judiciary to be challenged and remedied where appropriate. It is crucial that this be independent of the Judicial Office. By this means our two year experience of questioning the personal judgement of one member of the judiciary, resulting in the conclusion that the Judicial Office was possibly protecting 'its own', need never be repeated."

Those are three real-life cases that I have been involved in reviewing.

Chic Brodie: It is fair to say, on the basis of one of the examples that you gave, that most judges move in the same circles. Do you believe that they discuss individual cases?

Moi Ali: I cannot comment on that. I do not know.

Chic Brodie: We are trying to seek transparency and understand why some judges and those who manage—in inverted commas—the judiciary believe that they are above the law in terms of bias. Do you think that having more transparency is a goal in itself or is relevant to whatever decisions the judiciary make?

Moi Ali: Having more transparency can only be a good thing, in any area of life. I know that it has a downside, and I have read the response to the petition that states that the proposals are intrusive and could attract negative media reaction. However, that goes hand in hand with accountability. Someone who has a senior role in public life must be aware of the impact that their actions might have. Greater transparency enhances the credibility of any group of people, whether they be members of boards, politicians or the judiciary.

09:45

What came through strongly from the examples that I read out—the words of people who have made complaints, not my words—is that all those people felt that having more openness and transparency would enhance the judiciary. That is very true.

I genuinely do not believe that there is widespread bad practice among judicial office-holders, but public perception is really important. Sometimes things happen that should not happen and, without openness, it is very difficult to identify that. When such instances are identified, the feeling that I get from people who write to me is that there is a cover-up. It is easy to believe that there is a cover-up when there is no transparency. By having more transparency, the judiciary would be doing themselves a favour. They would be saying, "Look, there is nothing to hide and if we make mistakes we will admit to that."

Chic Brodie: Why do you think that the protection of the judiciary, by its members not having to subscribe to a register of interests, was written into the constitution?

Moi Ali: You would have to ask the people who drafted the legislation. I do not know.

This is speculation, but it has long been the case in this country that particular groups are harder to challenge. In the past, one such group was the medical profession. I had a look at the website of the General Medical Council—the regulator of doctors. Although I think that it would have resisted this strongly in the past, it now publishes registers of interests, records family relationships of its council members and so on.

At one time, it was difficult for politicians to take on that group. It is perhaps difficult to take on the judiciary, because judicial independence is always mentioned. As I said, that is a cornerstone of democracy, but because there has been no separation of accountability and independence, it is easy for the judiciary to say, "We are independent, so don't interfere in that." Unless independence and accountability are separated, legislation will continue to include no requirement for more openness and transparency.

Angus MacDonald (Falkirk East) (SNP): Good morning. In the spirit of the petitioners, I refer members to my entry in the register of interests.

You have said that you have had to complete registers of interests for roles in public bodies such as the Scottish Ambulance Service and the Scottish Police Authority. You state that you believe that the completion of such registers is not an onerous task or an onerous process. Will you give the committee more detail of your experience of completing registers? Will you expand on your view that such a task is not onerous?

Moi Ali: The process is straightforward and is probably similar to the way in which the register of interests operates for MSPs. The secretariat writes to me once a year and I am given a pro-forma to fill in. The pro-formas differ slightly for each organisation, but they generally ask about family relationships, possibly the holding of shares or property, relationships with organisations that might have an impact on decision making and that sort of thing.

The pro-forma takes no more than 10 minutes to fill in. After the pro-forma is completed in year 1, it comes back to us in year 2 and we are asked whether anything has changed. If a substantial change takes place in the interim, a person will notify the relevant board. That is it—it takes 10 minutes in year 1 and perhaps five minutes in subsequent years. It could not be easier to do.

David Torrance (Kirkcaldy) (SNP): The Lord President believes that the existing obligation of judicial independence and impartiality means that there is no need for a register and that, if such a register existed, it could impact on judges' privacy. It has also been suggested that it would be difficult

for judges to list all their registrable interests. Can you comment on that?

Moi Ali: To a degree, a register of interests involves a loss of privacy. However, if someone has a position in public life, as I do, the public have a right to know what gifts and hospitality they have accepted and what companies they have an interest in. That is right, I think, and it goes with the terrain. For many years, those who sit on boards have accepted that the public have a right to that information. I agree with the Lord President that a register is intrusive, but I think that that is the price that we pay in an open and accountable society.

John Wilson (Central Scotland) (SNP): You commented earlier that judges should recuse themselves when it is appropriate to do so. You said earlier that a complainant felt that he should have been told that the appeal judge who was dealing with his case was the son of the original judge. How often do judges recuse themselves? Do you think that they recuse themselves when it is appropriate?

Moi Ali: It is impossible for me to say. I can comment only on what comes to me from the people who write to me—that is the only evidence that I have. People have written to me to say that they felt that there should have been a recusal but it did not happen. Beyond that, I could not comment, as I do not know.

John Wilson: Do you agree that there should be a full disclosure register? As an elected member of the Parliament, I am required to update my entry in the register of interests regularly to reflect any changes in my interests relating to hospitality or events and in relation to organisations of which I have become a member. That is done regularly, not annually. Would it assist the transparency and openness of court procedure if judges were required to complete and maintain a register not only of their pecuniary interests but of any other interests that they have?

Moi Ali: Definitely. The issue that comes through in everything that I have looked at is that of perception. The consultation on the register of interests of board members that is currently on the Scottish Government website uses the word “perception” constantly throughout. One key issue is about how the public perceive matters. I am not suggesting that there is widespread bad practice or nepotism or anything of that nature, but it is really important that justice is not only done but seen to be done.

For example, in the Scottish Government’s consultation on amendments to the code of conduct for members of devolved public bodies, the draft code states:

“this ensures transparency of your interests which might influence, or be thought to influence, your actions”.

It continues:

“you must consider not only whether you will be influenced but whether anybody else would think that you might be influenced”.

It also states:

“You must always remember the public interest points towards transparency”.

It goes on and on in that vein. For me, the issue is that the public need to have confidence in the judicial system. By having transparency, we will build public confidence and people’s perception will alter.

In most of the letters that I receive, what comes through to me strongly is the feeling that people are all in cahoots. I do not suggest that that is the case with the judiciary, but people have the feeling that they do not really understand how the system works. Perhaps a judicial office-holder should have taken a certain action but did not do so. Someone might complain to the Judicial Office for Scotland but have the feeling that they look after their own. There is a feeling that the whole thing is a big cover-up. I do not believe that that is generally the case but, because there is no transparency, it is easy for people to believe that.

John Wilson: You rightly point to the crux of the matter. We must try to get to a position where people do not feel that there is a close-knit community making judicial decisions in the courts at a very senior level who have relationships or colleagues that they could be seen to be protecting or supporting. Do you have any indication of how many judges have recused themselves from cases that they have been about to try or have tried?

Moi Ali: I am sorry, but I do not know the answer to that.

John Wilson: Right. We might want to ask the Lord President that question.

We received a written submission from a Mr Beck, who refers to judges having to recuse themselves as

“a duty enshrined within the Bangalore Principles”.

Are you aware of the Bangalore principles and what they set out as guidance for judges?

Moi Ali: Only in passing—I could not claim to be an expert. The Bangalore principles are about judicial independence and cover, for example, the issue of recusal. It is left to the judicial office-holder to take a decision on whether recusal is necessary. That is probably a question for the Lord President.

Anne McTaggart (Glasgow) (Lab): You mentioned in your opening statement that you do not have much power, or that your role lacks teeth. What outcomes have you had from some of the 54 cases that you have investigated?

Moi Ali: The difficulty is that I have a very restricted role. When somebody makes a complaint about a judicial office-holder, it is investigated by the Judicial Office for Scotland according to what it calls a set of rules. My role is simply to sit down with the set of rules and the case and to decide whether the rules were followed. I might not agree with the outcome of the complaint, but I can say only whether or not the rules were followed. It is difficult for me to answer your question, because my role is simply to say whether or not the rules were followed.

Anne McTaggart: What happens if they were not followed?

Moi Ali: In that case, I could make a referral to the Lord President.

In England and Wales, the ombudsman can say that they do not think that a decision was right and can ask for it to be reinvestigated, or whatever they think should be done. All that I can do is to say to the Lord President, "The rules were not followed—here you are." I can make no recommendation as to what should happen. At this stage, I am not clear whether I will always be told what happens as a result of a referral, so I have written to the Lord President to try to clarify that. I have been told the outcome of most of my referrals to him. However, a while back, I referred a case that I understood was to be reinvestigated, but I have not heard anything more about it, so I am trying to clarify the situation. My concern is that I might feel that the rules have not been followed and send a case back but then never know what has happened. I am seeking clarity on that, because the rules do not say what should happen when I refer a case back.

The Convener: You have made a comparison with the ombudsman in England and Wales. I presume that the powers there are a lot stronger and that the budget is much bigger than £2,000. Will you briefly outline the differences between your role and the role of the ombudsman in England and Wales?

10:00

Moi Ali: The roles are very different. In England and Wales, the ombudsman's role is twofold: he reviews complaints about judicial office-holders in the same way as I do, but he also reviews complaints about judicial appointments, which are a completely separate matter. As an ombudsman, he can ask for an apology or for another investigation to happen. He has the full suite of

ombudsman powers. Although I can look at wider issues to do with maladministration, for example, I feel somewhat as if my hands are tied, because I can make suggestions but I cannot do anything more than that. I can say, for example, that the letters that someone wrote were perceived as unhelpful, unfriendly and off-putting, but I cannot tell that person to change the way that he writes letters to the public. I suppose that I have to be persuasive in my role, but I have no power to require any change in practice.

The Convener: Is £2,000 your entire budget for administrative back-up? It seems very small.

Moi Ali: I have no administrative support. I work from home and I do my own administration. The £2,000 is for everything except my fees.

Chic Brodie: I am appalled, although that is probably a strong term. In terms of how we close the loop, are you saying that, when you write to the Lord President suggesting a course of action, you get no feedback at all?

Moi Ali: No. I do not suggest a course of action, because I am not allowed to do that. I will say that the rules were not followed and that it is over to him. Until recently, when the Lord President wrote to the person who had complained to me, a copy of the letter would be sent to me so that I knew the outcome. Recently, however, I referred a case back and was told that it would be reinvestigated, but I heard nothing more. At one of my quarterly meetings, I asked people in the Judicial Office what had happened to the case, but they could not tell me because it was a matter for the Lord President. I have written to the Lord President to ask him what I can expect, because I am unhappy about referring things back and not knowing what happened. Until now, I have found out, but I do not know whether that particular case has been reinvestigated or what the outcome was.

Chic Brodie: Are the outcomes subject to freedom of information provisions?

Moi Ali: No. The work of the Judicial Office is subject to that, but the Lord President's work is not. The Judicial Office's work is subject to FOI only if it does not involve a complaints handling aspect.

Jackson Carlaw (West Scotland) (Con): The petitioner has submitted further evidence that is rather interesting, because it points out that the Crown Office and Procurator Fiscal Service operates a register of hospitality and interests. Therefore, other sections in the judicial system do that without, it seems, any of the adverse impacts that the Lord President has mentioned to us.

The focus of the committee's attention has been the Lord President's Edwardian-establishment disdain for the right of the hoi polloi—as I think he

sees it—to have any understanding of such matters. You have perhaps put it more politely, but it seems to me that you are not a million miles away from characterising the approach as being that the swish of judicial ermine and velvet should cow into deference the public and the legislature in relation to our right to understand the issues. I might have put it a bit more colourfully than you would, but do you agree? It appears that the Lord President is against the change because it has not been so to date.

Moi Ali: I cannot speak for the Lord President. I would like to be as colourful as you, but I do not feel that I can be at the moment. In any institution in any sector of society, change is not always welcomed, particularly change that is seen to be challenging. Most institutions resist that, and it would be fair to say that it is seen as a threat. However, I prefer to see it as an opportunity.

John Wilson: Earlier, you gave an indication of how you handle complaints. One example that you gave concerned a situation in which someone who sat on the bench was a relative of the person who had tried the case, or something like that. When a complaint of that nature comes to you, how do you verify the information that is provided to you? If there is an allegation of what you describe as nepotism, how do you get the information that enables you to process the complaint and pass it on to the Lord President?

Moi Ali: I do not need to verify it, because my role is only to consider whether the complaints rules were followed. I do not investigate or handle complaints; my role is simply to say whether, when that complaint was made to the Judicial Office, the rules were followed. It is almost a sort of tick-box exercise. I do not look at the complaint itself or decide whether it is genuine or backed up by facts; I simply look at whether the Judicial Office did what it should have done when the complaint went to it.

John Wilson: At present, it seems that you are at the mercy of the Lord President with regard to whether the Lord President deems it necessary to respond to you and to the complaint.

Moi Ali: Yes. I have no authority to suggest a course of action if I find that the rules have not been followed. I can only say that the rules were not followed and pass my report back to the Lord President. At that point, the Lord President has a few options, which are to do nothing, to reinvestigate or a variation of those two options. Basically, however, it is up to the Lord President to decide what to do with my report.

John Wilson: As you say, the Lord President has the right to do nothing. If that happens, how do you respond to the complainant in relation to

the way in which they have been dealt with by the courts?

Moi Ali: Unfortunately, my role ends when I write my report. I write my report and send a copy to the person who asked for the review and, if the rules have been breached, a copy to the Lord President. I have to explain to the person who complained to me that that is the end of my role and that whatever decision is taken thereafter is for the Lord President. Inevitably, I get follow-up correspondence from people saying that they do not understand why the Lord President decided to do whatever he did or asking for clarification of something that they do not understand. There is often some follow-up correspondence in which I try to help someone to understand how the system works. However, my role stops at the point at which I send out my reports. There is no challenge to that. That is the end of the process. There is nowhere else to go, except judicial review, which would seem slightly absurd.

John Wilson: So you do not have any powers to hold a Lord President to account for the recommendations, actions or lack of actions that they decide to take.

Moi Ali: No.

The Convener: We have talked a little about unintended consequences, and it was said earlier that the Lord President has argued that a register could impact on the judiciary's privacy. There are other aspects to that. It could also lead to harassment from the media or hostile individuals. What is your view on the Lord President's comments?

Moi Ali: I can speak only about my view as someone who has completed a number of registers of interest. My experience has been that there has been no kind of adverse media comment. I have not been hounded by the press. There has been no issue.

At the moment, the press—how shall I put it?—has it in for the judiciary. The reason for that is that there is a great lack of transparency. I think that, because there is no transparency, the media feel that there is something to hide and that they need to investigate matters and find out more. I believe that that would end if there were transparency. Basically, we would get the complete opposite from what the Lord President fears, because everything would be laid out for people to see.

The Convener: John Wilson has indicated that he wishes to make a final comment.

John Wilson: Thank you for allowing me back in again, convener.

The Lord President cites the section in the Scotland Act 1998 that says that judges or the judiciary are not accountable to this Parliament.

Do you think that his interpretation is correct? I think that the Parliament should not be able to hold the judiciary to account for decisions on judicial matters or court cases, but do you agree that the 1998 act should be looked at to allow the Parliament and the public to hold judges accountable with regard to their register of interests and matters in which they might be involved?

Jackson Carlaw: I am sorry, convener, but are we not straying some distance beyond the petition, which is about a register of interests?

John Wilson: I do not think so. As I understand it, the Lord President's response to us is that he does not agree that there should be a register of interests because judges are protected under the Scotland Act 1998. My question relates to the current provision in that act, because the Lord President has cited it as the reason for not giving evidence to the committee or for introducing a register of interests.

The Convener: To clarify the issue that Jackson Carlaw raised—and because Mr Carlaw might not be fully aware of our previous discussions—I should explain the background to this. As John Wilson has suggested, we asked the Lord President to appear before us, but a provision in the Scotland Act 1998 stipulates that the judiciary cannot be required to appear before the committee. You might have noticed that the Lord President is giving evidence to another committee next door but, if he voluntarily wishes to go before a committee, that is entirely up to him. We have made arrangements for the deputy convener Chic Brodie and myself to meet the Lord President in a few weeks.

I am conscious of time, so it would be helpful if the witness could be fairly brief.

Moi Ali: Of course, convener.

That goes back to my earlier point about judicial independence. I think that everyone will agree that politicians should have no part in influencing judicial decisions. However, judicial accountability is a completely separate issue. One should be accountable for one's actions. I am independent of Government as well as of the judiciary, but I have come before the committee because I believe that I am accountable to the public through Parliament. You have no right to influence my decision making, but you have every right to expect me to appear here and give evidence.

I think that the same applies to the judiciary. The issue that cuts through all of this is the need to separate judicial decision making, which must remain independent, from judicial accountability.

The Convener: Before the committee discusses and comes to a decision on its next steps, I thank

Moi Ali for attending the meeting. I know that it is not always easy to appear before a committee, but I am sure that I speak for other committee members when I say that I found your evidence enlightening and helpful.

Members will have their own views on the different actions that we should consider with regard to the petition, but I still think that it would be useful to seek the views of Dr Kennedy Graham, the New Zealand MP who has a strong track record on the wider issues. What are members' views on the next steps that we should take?

Jackson Carlaw: Given that, as the petitioner has pointed out, the Crown Office and Procurator Fiscal Service has a register of interests and given that issues to do with harassment, privacy and undue harm to the justice system appear not to have materialised, it would be useful to get confirmation of whether that is the operational outcome. After all, the matter goes to the heart of the Lord President's assertions.

The Convener: Would it be useful to write to the head of each of those services?

Jackson Carlaw: Yes, in the first instance, because the point directly contradicts in a relevant way the concerns that have been advanced in opposition to the petition.

The Convener: Do members agree to that course of action?

Angus MacDonald: I certainly do, but we should also bear in mind the issue raised this morning of the JCR's referrals to the Lord President. We should seek clarification on the procedure following such referrals and whether they are all followed up. After all, we have heard of one particular case that has not yet been followed up. I wonder whether that issue could be raised with the Lord President when you meet him in a few weeks, convener.

The Convener: If the committee agrees, I am sure that Chic Brodie and I will be happy to raise the matter.

10:15

Jackson Carlaw: I am happy with that suggestion, although I feel that the issue—which emerged this morning and which I agree is important—definitely strays beyond the petition's terms. Nevertheless, it is of material interest and could, following your discussions, be referred to the Justice Committee as a matter that it might wish to consider if it has not already done so. Of course, we cannot know that at the moment.

The Convener: That is a fair point. If the committee agrees, we will raise the issue with the

Lord President and, when we consider the petition again, discuss whether we need to refer other matters to the Justice Committee. Is that acceptable?

10:18

Meeting suspended.

Chic Brodie: I would love to understand the rationale behind the provision highlighted by John Wilson in the Scotland Act 1998 that the judiciary does not need to declare any interests. I suspect that we would not be able to get that information, but it would be interesting to find out how the decision was made, who made it and where and when it was made.

The Convener: As the clerk has made clear, we can ask the Scottish Parliament information centre to research the Westminster debates on the 1998 act. I was there at the time, but I am not sure whether I spoke on the matter. We will feed that information back to the committee as a point of historical interest that feeds into our wider argument.

Are members happy with those suggestions?

John Wilson: Jackson Carlaw is right that some of the issues that we have discussed go beyond the petition's call for a register of interests, but I suggest that it would be useful to keep the Scottish Government fully apprised of the evidence that we have received on this issue, the discussions that we have had and the issues that have arisen as a result of our consideration of the petition. We should also ask whether the Scottish Government might be minded to review the JCR's role in respect of the issues that have been highlighted this morning. After all, we have to build confidence in Scotland's judicial system. We have, for example, the Scottish Public Services Ombudsman, who can take a formal position on certain matters and make recommendations with regard to public bodies, but the Judicial Complaints Reviewer simply does not have the resources to review decisions that are made in Scottish courts in a way that commands the general public's confidence.

The Convener: If the committee agrees, we could put those points in writing to Kenny MacAskill and get feedback that we can discuss at a future meeting. Are members agreed?

Members *indicated agreement.*

The Convener: The committee has agreed that we will write to Dr Kennedy Graham, an MP at the New Zealand Parliament; follow up some of Jackson Carlaw's points; write to Kenny MacAskill; and ask SPICe to carry out some *Hansard* research.

I again thank Moi Ali for her excellent evidence, which has really opened my eyes to some of the practical issues. I suspend the meeting for a minute to allow for a witness changeover.

10:20

On resuming—

New Petitions

Single-room Hospitals (Isolation) (PE1482)

The Convener: Item 2 is consideration of new petitions, of which there are three today. As previously agreed, the committee has invited the petitioners to speak to each of them. The first is PE1482, by John Womersley, on isolation in single-room hospitals. Members have a note by the clerk, the SPICe briefing and the petition.

I welcome to our meeting the petitioner—you are very welcome, sir; thank you for coming along—and the Rev Douglas Irving, who is the minister at Kirkcudbright parish church. Please feel free to intervene at any time during our questioning if there are any points that you wish to make.

I also welcome Alex Fergusson MSP, who has a constituency interest in the petition. My intention is to ask Mr Womersley to make a short presentation of around five minutes. After that, I will ask Alex Fergusson to make a brief statement. I will then ask a few questions, after which I will ask my colleagues to join in.

John Womersley: Thank you very much for inviting us here to present the case for allowing a mix of shared accommodation and single rooms in new-build Scottish hospitals. We have agreed with the clerk that we will split the five minutes into two two-and-a-half-minute speeches, if that is okay.

I would like to make it clear at the outset that we advocate a substantial increase in the number of single rooms, so that everyone who wants a single room can have one, but we feel that people who prefer to share accommodation in hospital should be given the choice to do so. When we talk about a mix of single rooms and mixed accommodation, we are not talking about going back to old-fashioned wards; rather, we are talking about friendly three or four-bedded bays with single rooms.

People who prefer to share do so for a number of good reasons. Some just like company and some fear isolation, but it is also the case that real problems can arise in single rooms. People feel that they might miss a meal, that they might not have access to enough water or that something might happen to them—even a cardiac arrest—that is not noticed. There have been well-publicised cases in which such things have happened. There was a case in London of a man called Kane Gorny in a single room who was so thirsty that he telephoned the police to get water.

Unfortunately, when the police arrived, they were told that the patient was hivering. Ultimately, Kane Gorny died. The husband of Labour MP Ann Clwyd was seriously mistreated in a single room in the University hospital of Wales in Cardiff. Members may have heard about the outcome of that a year or so ago.

We think that there are three main reasons for advocating a mix of rooms. First, there is no evidence base for requiring single rooms—not even for infection control. The general feeling is that a 50:50 mix of single rooms and shared accommodation would be fine for infection control. There is evidence that for people in rehabilitation or palliative care, shared accommodation has a healing influence.

In addition, there is public opinion. The Government sponsored a survey of 990 people across Scotland that sought their views on single rooms and what kind of accommodation they would like in hospital, and only 41 per cent expressed a strong preference for single rooms. The remainder said that they would prefer to share or that it would depend on the circumstances at the time. A survey that was conducted in the local hospital where I come from in Dumfries and Galloway came out with very similar results.

As well as the results of those surveys, there is evidence from the Dumfries and Galloway Advocacy Service, a general practitioner, a retired member of the health board and a distinguished physician in Dumfries and Galloway, who all advocate a mixture of accommodation.

Finally, there is the matter of cost. Compared with a 50:50 mix of single rooms and shared accommodation, the capital costs of providing single-room-only hospitals would probably be about 15 per cent greater, and the running costs and nursing costs would be a bit higher, too.

The Rev Douglas Irving: I speak from the perspective of having visited hospitals in my capacity as a parish minister and as a part-time hospital chaplain for over 30 years, so I think that I have a good grasp of people's feelings about the issue. In addition, I have been a patient both in a single hospital room and in a small ward. I preferred the latter and for most people to whom I have spoken on the issue it is the preferred option, as it provides for a wholesome patient-care experience and allows patients to help each other when they are in need.

It is interesting that the spiritual care committee of Dumfries and Galloway health board, of which I am a member, said that it is not for hospitals to delegate patient-care responsibility to patients. However, I think that we are all our brothers' keepers and that we all need to help each other in

the wholesome experience that we can look for in hospital care.

My most serious concern is about denial of choice. Next year I will be able to vote on whether this country of ours should be independent—I will have a choice. In terms of worship in our church, we offer choice. Everywhere we look, we are offered choice. The chief executive of the health board where I live has conceded that when the new Dumfries infirmary has been built, I will not have any choice regarding hospital accommodation and will not be able to be admitted to a shared ward. That is a denial of choice.

It is very good that we have the opportunity this morning to share our concerns with the committee, because I question the extent to which MSPs have been able to exercise choice in consideration of this matter. I am not sure where the policy originated, but I suspect that it might have been in the personal family experience of the health minister's predecessor. However, I do not know to what extent the opportunity for MSPs to express choice on the policy has unfolded on the floor of the chamber. I hope that this evidence session will result in fuller discussion of what is a very important matter that potentially affects all of us in Scotland. All of us around this table might one day be admitted to hospital.

I have personal experience of working with a family whose daughter was admitted to hospital for observation because she had hit her head following a night out. The mother phoned the hospital at 7 am and asked how her daughter was. "Oh, she's fine," she was told. However, 10 minutes later there was a phone call to her and she heard "I'm sorry—there's been a serious deterioration in your daughter's health." The parents rushed to the hospital to find their daughter dead. I seriously question whether there had been proper observation of that young woman, who was in the isolation of a single room. That case raises the real issue of foreseeable risk in patient care.

I feel that the health boards, too, are being denied choice. They feel intimidated and constrained because they are told that they are not getting a new-build hospital unless they agree that it have single-room en suite patient accommodation. I asked my health board "Look, can you not make representations to the Scottish Government?" It told me that it had done so, but I want the advantage to patients of exercising a choice regarding their hospital accommodation to be pointed out. I would like the committee to take that point on board.

I was asked this morning by the Polish girl who served me breakfast what I am in Edinburgh for. I explained to her, and when she heard that this

Government is committed to such a huge expansion of single-room en suite hospital accommodation, she said that Scotland must be a very wealthy nation.

The Convener: Thank you for that. I invite Alex Fergusson to make a brief contribution.

10:30

Alex Fergusson (Galloway and West Dumfries) (Con): I will make it as brief as I can, convener. I thank you for the opportunity.

As has already been intimated, this debate kicked off in my constituency with the announcement that a new hospital was going to be built and that it would consist entirely of single-bed accommodation, in accordance with the Scottish Government's policy.

As any of you who are lucky enough to visit Dumfries and Galloway will probably realise quite quickly, it has quite an elderly population; indeed, its population is considerably older than the average in Scotland's regions, partly because it is such a lovely place to retire to and to live in. We all read stories in the papers about elderly patients in hospitals who sometimes rely on other patients to feed and look after them and ring the bell if they are in trouble. I have no doubt at all that a person's being in a small four-bed ward has a considerable beneficial impact on their recuperation from whatever they are in hospital for. Many of my constituents have told me that they feel that.

The announcement kicked off a very large amount of correspondence from very concerned patients to me, as the constituency member. That was backed up by concerns raised by Scotland Patients Association, which is chaired by a former colleague, Dr Jean Turner.

One of my real concerns—the issue has been highlighted to me—is the complete lack of consultation of patients preceding the policy, which seemed to come out of thin air. Dr Womersley referred to an in-house survey that was done by Chris Isles in Dumfries and Galloway royal infirmary, which had a quite interesting outcome. Around 60 per cent of people in wards said that they would like to stay in the wards if they were readmitted, but more interestingly, 40 per cent of the people in single rooms said that they would prefer to be in a multibed ward if they went back into hospital. That is significant and adds weight to the concern behind the petition.

I am aware of the time, so I will finish. We all sometimes get a little bit critical of consultations that seem to have a predetermined outcome. In this case, we have gone one step worse, in that

we have, it seems to me, a predetermined outcome without any consultation.

Thank you for your time.

The Convener: Thank you, Mr Fergusson.

You have covered the question that I was going to ask, which was about patients' views, so I will ask our two witnesses about one of the other arguments that has been touched on, which relates to infection control. There is an argument about single rooms being better for resisting hospital-acquired infections. I would be grateful for your views on whether that is a valid point in favour of or against single rooms in hospitals.

The Rev Douglas Irving: One of my members was in single-room accommodation. She had a terminal cancer, but I am glad to say that it has been treated and she is now in remission. She contracted an infection in that situation. Evidence has pointed to an overall reduction in infection through better infection control. There needs to be investment in staff training to make them aware of the need to wash hands in between dealing with patients.

John Womersley: A note that was written by Chris Isles, who is professor of medicine at Dumfries and Galloway royal infirmary, said that the only evidence for single rooms reducing hospital-acquired infection seems to be a Canadian study that suggests that having all provision in single rooms prevents one case of infection per 1,818 admissions to hospital. That assumes that isolation in a single room rather than good hand washing or some other infection control mechanism makes a difference. The medical experts seem to be fairly convinced that the 100 per cent argument does not wash, so to speak.

The Convener: No pun intended.

The Rev Douglas Irving: If some of the budget allocation that is going into the extravagant move towards single-room en suite accommodation could be put into further resourcing staff training and increasing staff numbers, that would be a very helpful way forward.

Chic Brodie: Good morning, gentlemen. I wonder whether you could help me. In February 2007, an interim statement was issued to the health boards that was based on the recommendations of the European health property network report. It said:

"it is appropriate to provide an overall single occupancy room level of between 50% and 100%."

By November 2008, the chief nursing officer issued a chief executive's letter saying that

"there should be a presumption that all patients will be accommodated in single rooms".

Do you have any indication as to why that statement was made a year and a half later? Why did we go from a recommended single occupancy room level of "between 50% and 100%" to an occupancy level of 100 per cent? In fact, the chief medical officer's clinical specialties advisers said:

"the current provision of single room accommodation is not sufficient across NHS Scotland and 100% single room provision is clinically appropriate in most clinical settings."

I am confused. Can you help me?

John Womersley: The response that Alex Fergusson and I got from Nicola Sturgeon at that time was that the Scottish Government had undertaken considerable work on provision of single-room accommodation and had set up a steering group that reported on the available literature and evidence for single rooms, a public attitude survey, a nurse staffing report and a financial impact study. The group concluded that for all new-build hospitals or other healthcare facilities with inpatient accommodation, there should be a presumption that all rooms will be single.

I have looked at a lot of that evidence that says that patients consistently voice a preference for single rooms: 41 per cent of patients consistently voice a preference for single rooms, but many other people voice a preference for shared accommodation, so I think that the evidence has been interpreted in a certain way. The public attitude survey certainly has a convincing histogram showing the people who would definitely prefer to have a single room and, further down, the people who inconsistently prefer one or who prefer to share.

Chic Brodie: Did anyone ever ask the question, to your knowledge, about how much the hospital would cost if we had had 50 per cent single rooms, as opposed to 100 per cent single rooms?

John Womersley: Board member Professor Hannay, who was a professor of general practice before he retired and who has investigated this stuff, said that the extra cost will be 15 per cent in capital costs and that there will be roughly the same increase in running costs and nursing costs. When I asked the board that question about cost, it said that it could not answer it because there was no option but to have 100 per cent single rooms, so it had not investigated the difference. However, that board member certainly came up with that figure.

Chic Brodie: So, are you saying that it cost—

John Womersley: It would cost about 15 per cent more to have all single rooms than it would to have a mix of singles and four-bedded bays.

Chic Brodie: I have no more questions.

Jackson Carlaw: You began—I want to start where you began—by giving examples of patients who suffered as a result of being in single rooms. The unfortunate impression might have been created that only patients in single rooms have had unfortunate experiences in hospitals across Scotland and the wider United Kingdom.

Do you accept that whether it be in a room or a ward or a single room, we have all heard of patients who suffered because the standard of treatment or care that they received was not as it should have been?

Personally, I am not aware of any example where the fact that the patient was in a single room was cited specifically as the reason why they suffered.

John Womersley: I would go along with that; I accept that that is the case.

Jackson Carlaw: Thank you, because it is an important point. All private and independent hospitals have single rooms.

John Womersley: That is correct.

Jackson Carlaw: What is their record on health-acquired infections compared with the sector that has a variable mix?

John Womersley: I cannot answer that.

Jackson Carlaw: I think that their record is better.

Why should people who are being treated within the national health service receive a lesser standard of care or treatment than those who are treated in the private or independent sector? For patients who have been treated in the independent sector, when has there been any evidence that they have felt that being in a single room has in some way led to their receiving inferior care?

John Womersley: There are two questions there. First, if I was in hospital for very short, simple treatment, I would much prefer to be in shared accommodation and I certainly would not feel that I was getting substandard treatment because I was in shared accommodation. In fact, when I was a junior doctor at Ruchill hospital and some patients were in single rooms, the nurses felt sorry for them because they were missing out on the camaraderie of the ward and the general healing spirit.

Jackson Carlaw: Forgive me for thinking that people are in hospital largely to be treated clinically in the first instance. I am interested in the concept of choice. If schoolchildren were to say that they would like to be taught in individual classrooms rather than in a collective classroom, what credence would we give to that? The matter that you raise was debated in this Parliament and all the political parties supported the move to

single rooms—a policy that was announced by the Cabinet Secretary for Health and Wellbeing at the time. On what basis should we set aside what is thought to be the appropriate clinical direction for treatment in hospital because people would like there to be a social environment?

John Womersley: I do not know that it would lead to that. There are doctors in Dumfries and Galloway, including the eminent clinician Professor Isles, who favour mixed rooms. The medical input is one thing, but there is more to the healing environment than just the medical side.

Jackson Carlaw: Do you have examples—as I do—of people being put into a room with three or four beds along with other patients whom they thought unsuitable people to be in a room with?

John Womersley: Absolutely. We would be in favour of having enough single rooms to accommodate not just those who want single rooms, but those whose medical condition, behaviour or other attributes require them to be in a single room.

Jackson Carlaw: How could that be done?

John Womersley: By moving them.

Jackson Carlaw: How could they be moved if there were no single rooms left, only rooms with multiple beds?

John Womersley: It would be about trying to balance things, as in a maternity labour room. One time in three years, perhaps, there might be insufficient beds in the labour room to accommodate all the people who are going into labour. There would have to be a balance with, say, 50 or 60 per cent single rooms so that, 99 times out of 100, or 990 times out of 1,000, people could be provided with the accommodation that they required.

Jackson Carlaw: My problem with your proposal is all the unintended consequences that it could have. My most recent experience of hospital was of being in a room with six beds. We had in the ward a convict from prison who was chained to the bed and permanently secured by prison guards. During his time in the ward, there was an incident in which, despite the length of the chain, he attacked police officers. I thought that that was a completely inappropriate environment for other patients to be in. If he had expressed the wish to be in a shared room rather than a single room, should his wish have been respected?

John Womersley: Of course not.

Jackson Carlaw: Who would you include in a list of those who could decide whether they wanted to be in a single room or a mixed room? How would you define who is entitled to make that choice? Would it be a clinical decision or a

decision of the patient? If the doctor felt that a patient should be in a single room but the patient expressed the view that they wanted to be in a room with a number of beds, whose will would prevail?

John Womersley: Usually, the two would be in accord.

Jackson Carlaw: What if they were not?

John Womersley: If they were not in accord, the doctor's view would prevail.

Jackson Carlaw: Exactly, and the clinical view at the moment is that we should move to single room accommodation.

John Womersley: That is not the clinical view. There are umpteen bits of evidence against that. Professor Isles and Professor Hannay are distinguished clinicians who have researched all the evidence.

Jackson Carlaw: I have not seen any of the surveys that were undertaken, but it is difficult to rely on them because the questions that are put to individuals can be subjective.

John Womersley: I carried out a 38 Degrees petition to which there were 200 signatories, 40 of whom wrote substantial evidence backing up their preference to share accommodation.

Jackson Carlaw: That appears to be based on social reasons.

John Womersley: It is based on healing reasons. There are also people at the end of their lives who do not want to die in a single room.

The Convener: We are a little short of time. If you do not mind, Mr Carlaw, we will move on.

Angus MacDonald: Good morning, Mr Womersley and Mr Irving. Mr Womersley, you acknowledged in your earlier statement that more than 40 per cent of patients would prefer single rooms, as evidenced by the public attitudes survey that the steering group conducted in 2008. However, you did not mention the other figures. The survey found that only 22 per cent would prefer a multibedded room and that 27 per cent would not mind.

John Womersley: That is what the survey showed. Yes.

Angus MacDonald: A study that was conducted by the *Health Environments Research & Design Journal* concluded that single-bedded rooms

"are the design intervention that positively affects the largest number of outcomes in a hospital setting",

especially in terms of healthcare-acquired infections, improved patient sleep, privacy, patient satisfaction and communication with family

members. Is that not why more than 40 per cent of patients want to be in a single-bedded room?

10:45

John Womersley: I certainly support their having that view. Anyone who wants to be in a single room will have valid reasons for feeling that way. However, I would not feel the same way if I was admitted to hospital for more than a couple of days.

Alex Fergusson: The petition is not against single rooms; instead, it simply says that we ought to consider giving people a choice, although not to the extent that Jackson Carlaw mentioned, whereby every patient gets exactly what they want. That is not the case at the moment; at the moment, patients go into single rooms even though they might not want to. I was in a single room and I thought that it was absolutely splendid, but I like my own company. A lot of people do not, which is probably why they did not want to put me in a multibedded ward, but that is by the by.

The system is not perfect. It would not be perfect if there was a choice, but the fact is that there would be a choice that does not exist at the moment. As for Jackson Carlaw's clever insinuation that the petition suggests that there is somehow a poorer level of clinical care in a national health service hospital as opposed to a private hospital and in a multibedded room as opposed to a single-bedded room, I have to say that the petition contains no such suggestion. Clearly, Jackson and I will discuss the issue further in the privacy of our own corridor.

The Convener: I will not intrude on family grief.

Do members have any other questions?

Chic Brodie: With regard to Jackson Carlaw's point about socialisation, do you, Dr Womersley, with your medical experience, believe that in many cases socialisation can help people who are receiving medical attention along the route to health?

John Womersley: Absolutely.

The Convener: Our next step is to decide how to deal with the petition. It seems sensible to ask the Scottish Government for specific information about choice. Some have argued that, as the Scottish Government has already made its views clear, we should not have to look at the issue, but the petition raises interesting points about the role of choice and I think that it is worth exploring with the Government the extent to which patients are given a choice between a multibedded ward and a single-bedded room. I would welcome the committee's views on that suggestion.

Jackson Carlaw: I support that course of action. This is an opportunity for the Scottish Government, some years after the Parliament's debate on the issues, to set out in writing its arguments in favour of the policy, which I note the Parliament supported.

Chic Brodie: I do not know whether this is within our remit, but I would like to find out the basis for suggesting that the move to single-bedded rooms in hospitals will cost 15 per cent more.

The Convener: That is a reasonable question. It is perfectly within our competence to raise such points with the Government. If it has those figures, which it might well have, we will get the information back.

Chic Brodie: Another reason for asking the question is the surveys, which have in some cases been disavowed, on the suggestion that there be 50 to 100 per cent single-bedded rooms.

The Convener: We will ensure that Chic Brodie's point is covered in our letter to the Scottish Government. Are members happy with that course of action?

Members indicated agreement.

The Convener: I thank both witnesses for attending the meeting and raising the issues in the petition. You answered our questions extremely well and I appreciate your giving up your time to come along this morning. I also thank the local MSP, Alex Fergusson, for giving up his time to come along and make a number of comments.

I suspend the meeting for a minute for a changeover of witnesses.

10:49

Meeting suspended.

10:50

On resuming—

Independence Referendum (Bilingual Question) (PE1483)

The Convener: Our second new petition is PE1483, by John Macleod, on a bilingual version of the independence referendum question. Members have a note from the clerk—I refer members to paper 4—as well as the SPICe briefing and the petition.

I welcome the petitioner, John Macleod, who is accompanied by Professor Rob Dunbar from the University of Edinburgh. Gentlemen, you are both very welcome and I thank you for coming along today. As members will be aware, Mr Macleod and Professor Dunbar will give their evidence in

Gaelic, for which simultaneous translation facilities have been provided. Members should wear the headphones provided to listen to the translation.

I invite Mr Macleod to make a short presentation of around five minutes to set the context. We will then move to questions from myself and my colleagues.

John Macleod: A chathraiche agus a bhuill na comataidh, tapadh leibh airson an cothrom seo a thoirt dhuinn fianais bheòil a thoirt seachad don chomataidh. Is mise Iain Macleòid agus còmhla rium tha an t-Àrd Ollamh Rob Dunbar, cathraiche cànanan, litreachas, eachdraidh is àrsaidheachd Cheilteach aig Oilthigh Dhùn Èideann.

Tha an athchuinge ag iarraidh air a' chomataidh ìmpidh a chur air Riaghaltas na h-Alba dreachd dà-chànanach a sholarachadh de phàipear-baileit reifreinn neo-eisimealachd na h-Alba. Ged a chaidh an e-athchuinge a-steach nam ainm fhìn a-mhàin, fhuair e taic fhad 's a bha e air loidhne airson ùine ghoirid bho 733 neach a chuir an ainmean ris.

Am measg nam prìomh phuingeann air am bu mhath leam gum beachdaich sibh an-diugh, is iad na prìomh phrionnsapalan a th' ann, an toiseach, còraichean cànanain luchd-labhairt na Gàidhlig, agus a-rithist, a bhith a' buileachadh laghan agus phlanaichean cànanain gnàthaichte a thaobh co-ionannachd spèis. Chan eil seo idir mu dheidhinn luchd-labhairt na Gàidhlig a' tuigsinn na Beurla no gur e pàipear-baileit aon-chànanach an cleachdadh àbhaisteach ann an taghaidhean no reifreannan air feadh na Rìoghachd Aonaichte.

Chaidh Achd na Gàidhlig (Alba) 2005, don deach taic uile-phàrtaidh a thoirt ann am Pàrlamaid na h-Alba, aontachadh

“le sùil ri bhith a' cur inbhe na Gàidhlig air stèidh thèarainte mar chànan oifigeil an Alba aig am bi spèis ionann ris a' Bheurla”.

Tha gach cuid Riaghaltas na h-Alba agus Pàrlamaid na h-Alba air planaichean Gàidhlig fhoillseachadh a tha ag amas air dèanamh cinnteach, nuair a thèid seirbheisean a libhrigeadh anns a' Ghàidhlig, gum bi iad aig inbhe is càileachd a bhios ann am coimeas ri seirbheisean sa Bheurla. Tha iad cuideachd a' gealltainn inbhe na Gàidhlig àrdachadh le bhith a'

“dèanamh cinnteach gum bi Ìomhaigh nas motha air a thoirt don Ghàidhlig taobh a-staigh beatha phoblach na h-Alba”.

A bharrachd air sin, chuir gach cuid Riaghaltas na RA agus Riaghaltas na h-Alba an ainmean ris a' Chùmhnant Eòrpaich airson Cànanan Roinneil no Mion-chànanan, agus bu chòir suim a ghabhail de na geallaidhean sin.

Na mo bheachd-sa, tha cleachdadh na Gàidhlig ann am prìomh phròiseas bhun-reachd leithid reifreann air neo-eisimeileachd—ceist a thuir

Riaghaltas na h-Alba fhèin a tha nas cudromaich na gin eile a chaidh a chur fa chomhair luchd-bhòtaidh na h-Alba ann an còrr is 300 bliadhna—deatamach gus a bhith a' comharrachadh iomchaidheachd a' chànan mar

“chànan oifigeil na h-Alba”.

Tha sinn an dùil gum bi deugairean 16 is 17 am measg luchd-bhòtaidh an reifreinn, agus bidh cuid dhiubh air gluasad bho shiostam air leth soirbheachail foghlam tro mheadhan na Gàidhlig, a tha air a bhith againn o chionn 25 bliadhna. Tha iad làn-airidh gun toirear aithne agus spèis don chànan oideachaidh aca, mar a chaidh a dhearbhadh ann an achd 2005.

Ged a tha mi a' cur fàilte air gealladh an Riaghaltais mu bhith a' cur a-mach stiùireadh mu phròiseas an reifreinn ann an dreachd dà-chànanach, chan eil ann am pàipear-baileit dà-chànanach ach ceum beag nas fhaide na sin. Chan eil ach aon cheist ghoirid air a' pàipear—dìreach sia faclan. Dh'fhaodadh gur e ceum beag a bhiodh ann am pàipear-baileit sa Ghàidhlig, ach 's e ceum sònraichte a bhiodh ann, agus ma tha pàipearan-baileit dà-chànanach ceadaichte anns a' Chuimrigh, carson nach biodh ann an Alba?

Mu dheireadh, dh'iarraim oirbh smaoinichadh air dè an teachdaireachd a bhiodh diùltadh pàipear-baileit sìmplidh dà-chànanach a' cur a-mach gu coimhearsnachd na Gàidhlig, agus dè bhiodh seo a' ciallachadh mu shealladh Pàrlamaid na h-Alba air an aon mhion-chànan a tha a' faighinn aithne mar chànan oifigeil ann an Alba.

Following is the simultaneous interpretation:

Convener and committee members, thank you for giving us this opportunity to give oral evidence to the committee. My name is John Macleod and, as you said, this is Professor Rob Dunbar, who is the chair of Celtic languages, literature, history and antiquities at the University of Edinburgh.

The petition calls for the committee to urge the Scottish Government to provide a bilingual version of the Scottish independence referendum ballot paper. Although I submitted the e-petition in my name only, during the brief period for which it was online, it was also supported by 733 signatories.

The main points that I would like you to consider are the following. The relevant issues are, first, the language rights of Gaelic speakers and, secondly, the application of existing law and language plans in relation to equality of respect. The issue is not about the fact that Gaelic speakers can understand English, nor is a monolingual ballot paper the normal practice in elections or referenda across the United Kingdom.

The Gaelic Language (Scotland) Act 2005, which received all-party support in the Scottish Parliament, was passed

“with a view to securing the status of the Gaelic language as an official language of Scotland commanding equal respect to the English language”.

Both the Scottish Government and the Scottish Parliament have published Gaelic language plans with the aim of ensuring that, when services are delivered in Gaelic, they are of a comparable standard and quality to those that are provided in English. There is also a commitment to enhance the status of Gaelic by

“ensuring that Gaelic is given an increased profile within Scottish public life”.

Furthermore, both the UK and Scottish Governments are signatories to the European Charter for Regional or Minority Languages, and those commitments should be respected.

The use of Gaelic in a key constitutional process such as a referendum on independence—a question that the Scottish Government has said is the most important question to be put to a Scottish electorate in more than 300 years—is necessary in order to demonstrate the relevance of the language as

“an official language of Scotland”.

We expect that the referendum electorate will include 16 and 17-year-olds, some of whom will be products of the successful Gaelic-medium education system over the past 25 years. They deserve to have their education language given the due recognition and respect that the 2005 act said that it should have.

I welcome the Government's promise to issue guidance on the referendum process in a bilingual format, but a bilingual ballot paper is only a small step beyond that stage. The ballot paper will have one short question of just six words. A bilingual ballot paper may be a small step for Gaelic, but it would be a significant one. If bilingual ballot papers can be used in Wales, why not in Scotland?

Finally, I ask you to consider what message the denial of a simple bilingual ballot paper would send to the Gaelic-speaking community. What would that signify regarding the Scottish Parliament's approach to Scotland's only official minority language?

The Convener: Thank you for that opening statement. I will kick off with the first question. Professor Dunbar, if you wish to respond at any time, please indicate and we will be very happy to hear your views.

Are you concerned that Gaelic is not being given the respect that is due given its statutory status as an official language of Scotland?

John Macleod: Gu cinnteach. Ma dh'aontaich a' Phàrlamaid inbhe cànan oifigeil a thoirt don

Ghàidhlig, is cinnteach gun do bheachdaicheadh aig an àm air dè a' bhuaidh a bheireadh seo air a' chànan. Is cinnteach gu bheil leithid taghaidhean agus reifreannan a' tighinn a-steach dha na cothroman sin a bu chòir dhan Ghàidhlig fhaighinn aig ìre oifigeil poblach.

Following is the simultaneous interpretation:

Certainly. When the Parliament agreed to give official language status to Gaelic, surely it thought about the effect that that would have on the language. Surely things such as elections and referendums come into the opportunities that Gaelic should have at the official, public level.

The Convener: Thank you for that. I will now bring in my colleagues.

Angus MacDonald: I should declare my convenership of the cross-party group on Gaelic and that John Macleod has been an acquaintance of mine for a number of years and there has been correspondence between us regarding the petition. Perhaps I should also declare that we are both Leòdhasaich, which is the Gaelic term for people from Lewis.

Madainn mhath, Iain. Madainn mhath, Professor. It is good to hear Gaelic being spoken in committee proceedings in Parliament once again. You will be aware that the Referendum (Scotland) Bill Committee's stage 1 report, which the Parliament debated last week, concluded:

"We don't consider that a persuasive case has been made for a bilingual ballot paper. One of the great virtues of the ballot paper set out in the Bill is that it is simple and clear. As witnesses have pointed out, a Gaelic translation will be available to those who wish to refer to it."

What do you say to those who argue that a bilingual ballot paper could cause confusion?

John Macleod: Chanainn an toiseach nach bu chòir an t-uallach a bhith oirnn a bhith a' putadh airson inbhe a thoirt dhan Ghàidhlig mar seo. Is cinnteach ma chaidh inbhe oifigeil a thoirt dhan chànan, ma tha planaichean Gàidhlig air ullachadh a dhèanamh airson a' chànan, gum bu chòir sin a bhith gu leòr. Carson a dh'fheumadh sinn a bhith a' dèanamh barrachd iomairt airson ar cànan na dh'fheumadh luchd-labhairt na Beurla? Mar sin, chan eil mi a' smaoinichadh gu bheil e ceart gum bu chòir dhuinn barrachd iarraidh air coimhearsnachd na Gàidhlig na bhiodh air iarraidh air coimhearsnachd na Beurla.

Chan eil mi a' smaoinichadh leis an t-seòrsa pàipeir seo gun cuireadh e duine sam bith troimh chèile no gun adhbhrachadh e mì-chinnt no imcheist ann an inntinnean luchd-bhòtaidh. Tha am pàipear gu math sìmplidh—chan eil ann ach aon cheist le sia faclan. Chan e pàipear fada le tòrr sgrìobhaidh no càil dhen t-seòrsa sin a tha ann.

Tha a' cheist gu math sìmplidh agus dh'fhaodadh, mar a tha daoine a' dèanamh anns a' Chuimrigh, leth dhen pàipear a bhith ann am Beurla agus leth eile a bhith anns a' Ghàidhlig. Dh'fhaodadh dà bhogsa a bhith ann airson roghainn a dhèanamh. Chan eilear ag iarraidh air duine dad a sgrìobhadh ach X a chur dhan bhogsa. Tha mi a' smaoinichadh gur e seo eisimpleir dhen t-seòrsa pàipear-bhòtaidh far am bu chòir dhuinn toiseachadh a' toirt co-ionannachd cothruim agus co-ionannachd spèis dhan Ghàidhlig. Mas e pàipear gu math sìmplidh a th' ann, cha bu chòir dha dragh sam bith a dhèanamh ann an inntinn luchd-bhòtaidh.

Following is the simultaneous interpretation:

First, the pressure should not be on us to press for status for the language. Official status was given to the language and Gaelic language plans have been prepared, so why should we have to push for improvements to the status of the language? I do not think that it is correct that we should ask for more from the Gaelic language community than we would from the English language community.

I do not think that the paper would confuse anyone or cause confusion in voters' minds. It is a simple paper. There is one question with only six words. It is not a long paper with lots of writing or anything like that.

The question is simple. As happens in Wales, half the paper could be in English and half could be in the other language. There could be just two boxes for the choice. We do not ask anyone to write anything on the ballot paper apart from putting X in one box. This is an example of the type of voting paper where we should start giving equality to Gaelic. It will be a simple paper and it should not cause any problems for the voters.

11:00

Professor Rob Dunbar (University of Edinburgh): Tapabh leibh airson a' chothruim an-diugh fianais a thoirt seachad tro mheadhan na Gàidhlig. Tha sin cudromach don Ghàidhlig, agus tha sinn fada nur comain.

A thaobh co-dhiù a bhiodh daoine troimh chèile, thathas agus bhathas a' cleachdadh bileagan-bhòtaidh dà-chànanach anns a' Chuimrigh, ann an diofar reifreannan thar nam bliadhnan. Ann an Èirinn cuideachd, thathar a' cleachdadh pàipearan-bhòtaidh dà-chànanach ann an reifreannan. Is ann à Canada a tha mise agus ann an cuid a sgìrean, leithid Quebec, tha daoine cleachdte ri bhith a' làimhseachadh seo.

Ged a tha barrachd luchd-labhairt na Cuimris agus barrachd luchd-labhairt na Gaeilge ann na tha de luchd-labhairt na Gàidhlig ann an Alba, tha

cuid ann an Èirinn, sa Chuimrigh agus ann an Quebec a tha làn chomasach anns an dà chànan. Tha cuid a tha comasach air aon chànan a bhruidhinn gun a bhith ga leughadh agus mar sin air adhart, agus tha na dùthchannan sin gu math coltach ris an t-suidheachadh againne ann an Alba a thaobh chomasan.

Chan eil fianais sam bith bho na dùthchannan sin gu bheil daoine troimh chèile le pàipearan-bhòtaidh mas e is gu bheil a' cheist simplidh anns an dà chànan. Tha deagh eisimpleirean bho na dùthchannan sin mu choltas nam pàipearan-bhòtaidh. Cha chreid mi gum biodh adhbhar sam bith a bhith draghail no gum biodh seo ag adhbharachadh thrioblaidean. Cuideachd, dh'fhaodadh Coimisean an Taghaidh sùil a thoirt air a' cheist, mas e ceist dhoirbh a tha seo ann am beachd na Pàrlamaid.

Following is the simultaneous interpretation:

Thank you very much, and thank you for the opportunity to be here today to give evidence in Gaelic. That in itself is an important thing for Gaelic and we are very grateful for the opportunity.

Regarding whether people would be confused, as John Macleod said, bilingual voting papers have been used in Wales in different referenda over the years. Also, Ireland uses bilingual voting papers in referenda. I am originally from Canada, and again in provinces such as Quebec, people are used to using bilingual voting papers.

Although there are more Welsh speakers in Wales and Irish speakers in Ireland than there are Gaelic speakers in Scotland, some people in Ireland, Wales and Quebec are more than able to speak their two languages. Some are able to speak one language but may not be able to read in the other language. In many ways, the situation in those countries is similar to the one in Scotland.

There is no evidence from those countries that people are confused by having a bilingual voting paper, especially if the question is simple. There is evidence from those countries about what ballot papers look like and I do not think that there would be any problem at all. Also, the Electoral Commission could take a look at the issue, especially if the Parliament thought that there might be any difficulty.

Angus MacDonald: You both mentioned the fact that the ballot paper for the Welsh referendum on extending the powers of the Welsh Assembly was bilingual. Presumably, you brought that to the attention of the Scottish Government and the Referendum (Scotland) Bill Committee in your submissions. Also, I believe that Arthur Cormack, who submitted comments to the Referendum (Scotland) Bill Committee, provided a sample of what the ballot paper could look like.

I note that, in your submission to the Public Petitions Committee, you state:

“The opportunity will also be taken to bring the absence of a bilingual ballot paper in the referendum to the attention of the Council of Europe Committee of Experts who, at a meeting on 1st May 2013, will be taking evidence from Gaelic organisations as to the Scottish Government’s progress on meeting their obligations under the European Charter for Regional or Minority Languages.”

How did that meeting go? Did you highlight the lack of a bilingual ballot paper?

John Macleod: Gu mì-fhortanach, cha d' fhuair mise an cothrom fianais a thoirt seachad dhan choinneamh a bha sin agus cha b' urrainn dhomh a ràdh an deach an cuspair a dheasbad no nach deach. Cha robh Rob an làthair a bharrachd, agus mar sin chan urrainn dhomh sin a fhreagairt.

Following is the simultaneous interpretation:

Unfortunately, I did not have the opportunity to give evidence at that meeting, so I cannot say whether the issue was discussed. Rob Dunbar was not there either, so we cannot answer that question.

Angus MacDonald: Perhaps you could get back to us with some more information on that.

Convener, with your indulgence, I will ask another question. As I mentioned, the stage 1 debate on the Scottish Independence Referendum Bill took place last week. During the debate, it was pointed out that no Gaelic speaker is monolingual. However, it was also acknowledged that, whether or not we have independence, this Parliament needs to address equal respect for Gaelic, as set out in the 2005 act. It was also pointed out during the debate that no attempt was made by petitioners to have bilingual ballot papers in the 2007 and 2011 Scottish Government elections, the 2010 UK election or the alternative vote referendum. Was any consideration given to petitioning for a bilingual ballot paper at any of those elections?

John Macleod: Cho fad 's as aithne dhomh, cha deach leithid a dh'oidhirp a dhèanamh gu ruige seo, agus tha mi a' smaoinichadh gum biodh e ceart a ràdh gun robhas a' faicinn duilgheadas aig an àm le cus fiosrachaidh a bhith air pàipearan-bhòtaidh. Tha cuimhn' agam aig aon dhe na cothroman bhòtaidh gun robh gearan mòr air cho fada 's a bha am pàipear-baileit agus gun robh sin ag adhbharachadh duilgheadas dhan luchd-bhòtaidh. Ach, uair a thug mise sùil air seo, chunnaic mi gur e cothrom a bh' ann an iomairt seo a chur air chois leis gur e pàipear-bhòtaidh gu math simplidh agus goirid a tha gu bhith ann an ath-bhliadhna. Mar sin chan fhaca mi gun robh eisimpleir nas fheàrr againn gu ruige seo airson co-ionannachd na Gàidhlig fhaighinn a-steach dhan t-siostam bhòtaidh.

Following is the simultaneous interpretation:

As far as I know, no such effort was made. I think that it would be correct to say that, at the time, having too much information on the voting papers was seen as being a problem. I remember that at one of the elections there was a complaint about how long the ballot paper was and that that would cause problems for voters. I saw this ballot as an opportunity to start up this initiative, as the voting paper that will be used next year will be very simple and short. I have never seen an opportunity up till now where we could have equality for Gaelic in the voting system.

Angus MacDonald: The bill's progress has not been completed, as it still has to go through stages 2 and 3, so there may be an opportunity for members to lodge amendments at stage 2. I am sure that you will watch proceedings with interest.

Professor Dunbar: Bha mi dìreach a' dol a ràdh gu bheil referenda rud beag eadar-dhealaichte bho thaghadh eile. Anns gach sgìre-bhòtaidh tha na pàipearan eadar-dhealaichte agus is cinnteach gum b' fheuch e do Bhòrd na Gàidhlig agus buidhnean eile beachdachadh air cleachdadh na Gàidhlig air foirmean oifigeil ann an taghadh—*is e rud cudromach a bhiodh ann—gus iomhaigh agus cleachdadh na Gàidhlig a bhrosnachadh. Tha sin aig teis-meadhan feallsanachd Achd na Gàidhlig, a' Ghàidhlig a bhrosnachadh ann an suidheachaidhean eadar-dhealaichte bho na suidheachaidhean àbhaisteach a bha luchd na Gàidhlig a' cleachdadh a' chànain. Le sin, tha mi a' smaointinn gur e ceist chudromach a tha sin.*

Gu ruige seo, cha deach deasbad a dhèanamh air sin agus tha mi cinnteach gum biodh diofar bheachdan air co-dhiù a bu chòir pàipearan-bhòtaidh dà-chànanach a chleachdadh chun na h-aon ìre anns na h-Eileanan an Iar agus can ann an Sealtainn. Tha ceistean doirbh agus trioblaideach an lùib sin ach tha an taghadh seo eadar-dhealaichte anns an t-seadh sin. Thèid aon phàipear-bhòtaidh a chleachdadh air feadh na dùthcha, agus anns an t-seadh sin tha an taghadh seo eadar-dhealaichte.

Thathas ag aithneachadh sin ann an Èirinn mar eisimpleir, ged a tha iad a' cleachdadh phàipearan-bhòtaidh dà-chànanach ann an cuid a thaghadh tha achd sònraichte a chaidh aontachadh le Pàrlamaid na h-Èireann mu referenda. Tha e acasan anns an lagh gum bu chòir pàipearan-bhòtaidh dà-chànanach a bhith ann. Mar sin, tha a' cheist cudromach agus bhrosnaichinn fhìn a' Phàrlamaid seo, Bòrd na Gàidhlig agus buidhnean eile gus suil gheur a thoirt air a' cheist seo ach 's e taghadh cuimseach eadar-dhealaichte a tha anns an taghadh seo seach taghadh eile.

Following is the simultaneous interpretation:

I was just going to say that referenda are slightly different from normal elections, in which the voting papers are different in every constituency. I think that it would be worth Bòrd na Gàidhlig thinking about the use of Gaelic in official forms at election time. That is important in raising the profile and image of Gaelic. At the very heart of the philosophy of the Gaelic Language (Scotland) Act 2005 is the promotion of Gaelic in situations that are different from the normal situations in which Gaelic speakers use the language. I therefore think that this is a very important part of that.

Up till now, there has been no discussion of the issue, and I think that there will be different views on whether bilingual voting papers should be used in the Western Isles, for example. There are problems associated with that, but this is a different situation: there is just one voting paper for the whole country. In that respect, this vote is different.

Such situations are recognised in Ireland, for example. Bilingual voting papers are used in some elections, and the Irish Parliament agreed to a special act regarding referenda. That statute says that referenda should have bilingual voting papers. In that sense, I would encourage the Scottish Parliament, Bòrd na Gàidhlig and other groups to look very closely at our proposal. The independence referendum is very different from other, normal elections.

Angus MacDonald: I am sure that Bòrd na Gàidhlig will take on board the facts that have been raised in today's debate. I have a meeting with the chief executive of Bòrd na Gàidhlig tomorrow, and I will certainly take that opportunity to raise the points that you have raised today.

The Convener: Thank you for that. We are a little bit short of time, so I ask members to indicate if they wish to ask questions.

John Wilson: Madainn mhath. Professor Dunbar, you indicated that the importance of the independence referendum means that you would like to see both Gaelic and English being used in all ballot papers. Do you wish to see that extended to other elections in future? The referendum could be a precedent for other elections. If you are serious about promoting the Gaelic language, one way of doing that would be to promote it every four or five years at an election rather than just in the referendum.

Professor Dunbar: Gu dearbh, tha mi a' smaointinn gur e fìor dheagh chothrom a tha ann sin a' phìobrachadh, agus is cinnteach gum bi daoine a' deasbad na ceist seo tro mheadhan na Gàidhlig. Tha gach taobh anns an iomairt bhòtaidh mu thràth air goireasan a chur air dòigh gus Gàidhlig a chleachdadh; tha daoine anns na

meadhanan, air blogs agus eile, a' deasbad na ceist seo tro mheadhan na Gàidhlig. Bidh na meadhanan Gàidhlig a' leantainn an reifreinn gu dlùth agus is cinnteach gum bi daoine a' deasbad ceist neo-eismeileachd na h-Alba tro mheadhan na Gàidhlig.

Is e rud math a tha sin agus tha e iongantach ann an dòigh gu bheil an Riaghaltas fhèin air pàipearan conaltraidh a sgaoileadh tro mheadhan na Gàidhlig. Bhitheamaid an dùil gun do sgaoil iad na pàipearan sin gus cleachdadh na Gàidhlig a bhrosnachadh anns a' cheist chudromach seo. Mar sin, faodaidh sinn deasbad, faodaidh sinn a' cheist a sgrùdadh agus faodaidh sinn fiosrachadh fhaighinn bho na meadhanan agus a h-uile rud a dhèanamh tro mheadhan na Gàidhlig, ach nuair a thèid sinn dhan chùbaid gus an taghadh againn a chomharrachadh, chan fhaod sinn a leughadh tro mheadhan a' chàinain. Tha sin car annasach. Bho seo a-mach, tha mi a' smaointinn gu bheil e cudromach gum bi sinn a' beachdachadh air cleachdadh na Gàidhlig ann an ceistean cudromach leithid taghaidhean aig ìre nàiseanta agus ionadail cuideachd.

Following is the simultaneous interpretation:

Indeed. This is a good opportunity to press the point. I am sure that people will discuss that question through the medium of Gaelic. Both sides in the referendum campaign have created resources in the Gaelic language; in the media and in blogs people are discussing, through the medium of Gaelic, whether Scotland should be an independent country. The Gaelic media discuss the issue very closely, and certainly people will discuss the question through the medium of Gaelic. That is a great thing. It is very good that people are able to do that.

In a way, it is strange that the Government has issued consultation papers in Gaelic about the issue—we can discuss and analyse the issue and get information in Gaelic, but when we go to vote and tick the box that we want to tick, we will not be able to do that through the medium of Gaelic. I find that a little bit strange. I also think that, from now on, we should look at the use of the language in important aspects of life, such as general elections.

John Macleod: Chanainn gur e cothrom a tha seo deuchainn fheuchainn leis a' cheist seo mar phileat. Bidh e math ma dh'obraicheas e; ma nochdas duilgheadas sam bith, ionnsaichidh sinn dè bu chòir a dhèanamh anns an àm ri teachd.

Dh'fhaodadh gun robh ceistean dhen t-seòrsa seo air an togail nuair a thòisich sinn air foghlam tro mheadhan na Gàidhlig. Bha duilgheadasan agus teagamhan gan nochdadh an robh e iomchaidh agus am bu chòir clann a bhith air an oideachadh anns a' Ghàidhlig an àite anns a'

Bheurla. Tha sinn air faighinn seachad air sin. Tha 25 bliadhna bho thòisich foghlam tro mheadhan na Gàidhlig agus 's e siostam air leth soirbheachail a tha ann. Chan eil duine ag ràdh nach eil e iomchaidh dha clann a bhith a' faighinn an oideachaidh anns a h-uile seòrsa cuspair tro mheadhan na Gàidhlig, agus tha buannachd mhòr na chois.

Tha mi a' smaoinichadh gum faod sinn sin fhaicinn mar eisimpleir mhath air cleachdadh na Gàidhlig ann an dòighean iomchaidh aig ìre poblach agus prìobhaideach. Tha sinn air gluasad mean air mhean gus a bhith a' faighinn barrachd is barrachd inbhe dha ar cànan agus gun sin a bhith a' dèanamh cron sam bith air luchd-labhairt na Beurla.

Following is the simultaneous interpretation:

I would say that this is an opportunity to test out the issue as a pilot. If it works, that will be great. If any problems arise, we will learn from them so as to improve for the future.

Many similar questions were raised when we started Gaelic-medium education. People had worries about whether it was appropriate for children to be taught through the medium of Gaelic rather than through the medium of English. We have got past those problems. Gaelic-medium education has been going for 25 years now and it has been highly successful, and nobody says that it is not appropriate for children to learn through the medium of Gaelic. There have been great benefits associated with Gaelic-medium education.

We can see that as an example of the use of Gaelic in appropriate public and private settings, and we are moving bit by bit to get an increased profile for the language. That does not harm English speakers in any way at all.

John Wilson: Have you had any discussion with the Electoral Commission, the Electoral Management Board for Scotland or local returning officers about the practicalities of including Gaelic on the ballot paper?

John Macleod: Cha deach sinn a-steach gu còmhraidhean sam bith le leithid de bhuidhnean. Is dòcha nach eil e iomchaidh dhomh a bhith a' dol air adhart le sin aig an ìre seo. Chan eil mi a' faicinn gum bu chòir duilgheadas sam bith a bhith ann am pàipear goirid, le ceist gu math goirid agus gun ach sia faclan innte. Mar sin, chan eil mi a' smaoinichadh gum bu chòir dhuinn a bhith a' coimhead ri bhith a' dùileachadh dhuilgheadasan mòra dhen t-seòrsa sin.

Following is the simultaneous interpretation:

We have not had discussions with any of those groups. I do not think that it is appropriate for me to go forward with that at the moment, but nor do I

think that we should expect there to be any problem with a paper that has a short question of six words.

John Wilson: You indicated earlier that you recognise the importance of the referendum, and you said that we could learn from any problems that may arise from the use of the Gaelic language in that referendum. The Scottish people are being asked to make a major decision a year from tomorrow. Do you agree that we should make the ballot paper as clear as possible so that there is no ambiguity for people voting in the referendum?

John Macleod: Tha mi ag aontachadh gum feum am pàipear-baileit a bhith sìmplidh agus furasta a thuigsinn. Tha mi air dreach de phàipear ullachadh far a bheil a' Bheurla air aon leth dhen duilleig agus a' Ghaidhlig air an duilleig eile, le aon bhogsa airson taic a thoirt agus aon bhogsa airson a chur na aghaidh. Chan eil mi a' smaoinichadh gu bheil sin ro dhuilich a thuigsinn. Mar a thuir Rob Dunbar, thathas ga chleachdadh anns a' Chuimrigh agus ann an Èirinn agus ann an dùthchannan eile gun duilgheadas sam bith. Tha mi a' smaointinn gum feum sinn faighinn seachad air a' bheachd seo gum feum a h-uile càil a bhith anns a' Bheurla gus an tuig daoine e.

Following is the simultaneous interpretation:

I agree that the ballot paper must be simple and easy to understand. Again, I have a draft of a paper on which the English is on one half of the paper and the Gaelic is on the other, and there is one box to say yes and one box to say no. I do not think that that is too difficult to understand. As Rob Dunbar said, that type of paper is used in Ireland, Wales and other countries without any problems. I think that we have to overcome the opinion that everything has to be in English so that people can understand it.

11:15

Professor Dunbar: Sin ceist chudromach agus tha mi a' smaointinn gu bheil dòighean timcheall air. Tha mi a' smaointinn gum biodh e ciallach Coimisean an Taghaidh a thoirt a-steach. Nuair a chuir Riaghaltas na h-Alba a' cheist air Coimisean an Taghaidh, cha do dh'fhaighnich iad agus cha tug iad eisimpleir de phàipear-bhòtaidh dà-chànanach dhan choimisean. Bha iad a' faighneachd am biodh paipear-bhòtaidh aona-chànanach a' cur bacadh air duine sam bith agus co-dhiù a bhiodh trioblaidean na lùib. Tha mi a' smaointinn gum biodh e ciallach a' cheist a chur air ais, is dòcha gu Coimisean an Taghaidh, aig a bheil comas ceistean mar seo a làimhseachadh.

Ann an dòigh, tha ceistean eile air èirigh mun taghadh seo, rudan eile a tha gu math eadar-dhealaichte. Mar eisimpleir, airson a' chiad uair, bidh cothrom bhòtaidh aig daoine aig aois 16

bliadhna agus 17 bliadhna. Tha sin ùr cuideachd, agus is dòcha gum bi trioblaidean na lùib agus chaidh beachdachadh air sin. Tha mi cinnteach gun tèid againn air cuid dhe na duilgheadasan as motha an lùib sin a sheatlaigeadh agus a shocrachadh ro làimh agus tha mi a' smaointinn gum biodh e ciallach leigeil le Coimisean an Taghaidh beachdachadh air a' cheist seo agus, is dòcha, deuchainn a chleachdadh feuch am faigh iad a-mach co-dhiù a bhiodh duilgheadasan ann.

Ann am freagairt a fhuair mo charaid Iain MacLeòid bho Riaghaltas na h-Alba, bha an Riaghaltas ag ràdh gun robh iad a' bruidhinn ri cuid dhe na h-oifigearan taghaidh agus gur dòcha gum biodh trioblaidean ann. A-rithist, chan eil mi buileach cinnteach a bheil an t-uamhas fianais ann. Nam bharail, bhiodh e na b' fheàrr leigeil le Coimisean an Taghaidh sùil a thoirt air agus na ceistean seo fhuasgladh. Mas e is gu bheil trioblaidean mòra a dh'fhaodadh cron a dhèanamh air an taghadh, bhiodh sin cudromach a shoilleireachadh aig an ìre sa, ach mar a thuir sinn roimhe, bho dhùthchannan eile is coltach nach bi pàipearan-bhòtaidh dà-chànanach ag adhbhrachadh thrioblaidean mar seo. Tha mi a' smaointinn gu bheil muinntir na h-Alba a cheart cho gleusta ris na Cuimrigh agus ris na h-Èireannaich ach tha mi a' smaointinn gu bheil làn chomas aig Coimisean an Taghaidh seòrsa deuchainn a ruith.

Following is the simultaneous interpretation:

It is a very important point. There are ways to solve any problem. It would be appropriate to bring in the Electoral Commission. When the Scottish Government asked the Electoral Commission the question, it did not give an example of a bilingual voting paper; it just asked whether it would be a problem for anyone, or whether, indeed, a one-language paper would cause problems for anyone. It would be sensible to put the question to the Electoral Commission again, as it has powers to deal with such questions.

Other questions have been raised about the vote. Some things about it are very different. For example, for the first time, 16 and 17-year-olds will have the chance to vote. That is a new thing and perhaps there will also be problems with it, but the issue has been discussed and I am sure that we will be able to deal with any problems, which can be solved and made easier. It would be sensible to allow the Electoral Commission to discuss the question and perhaps to test the bilingual paper to see whether there are more problems with a bilingual paper.

A reply that John Macleod received from the Scottish Government stated that it thought that problems could be associated with the ballot paper. Scottish Government representatives had spoken to some returning officers, but I am not

sure that there is very much evidence for there being problems. I believe that it would be better to allow the Electoral Commission to have a look at the question, and if lots of problems arise from testing it would be important for the commission to deal with them then. However, as John Macleod said, lots of other countries use bilingual voting papers in referenda, and I am sure that Scottish people are just as intelligent as Irish and Welsh people are. It is important to allow the Electoral Commission to run that test of a bilingual voting paper.

John Wilson: Tapadh leat. As Angus MacDonald said, stages 2 and 3 of the bill process will be very interesting as regards the pursuance of the argument.

The Convener: I am afraid that we are out of time. The committee will now consider the next steps. We all agree that it is an interesting petition. As we have heard from Angus MacDonald, we have already been through stage 1, and there are opportunities at stage 2 for members to lodge amendments. Therefore, there is a practical constraint on what we can do because we are talking about an active Scottish Government bill. Nevertheless, I would like to hear members' views on the next steps.

Angus MacDonald: I agree that there is little more that the Public Petitions Committee can do. However, as I said, there is an opportunity for members to lodge amendments at stages 2 and 3, and that is probably the best way forward.

John Wilson: I suggest that the committee take the opportunity to write to the Scottish Government to indicate that we have been presented with the petition and are considering it, and that we are aware of the legislative programme and of the fact that the bill has moved on to stage 2. I also suggest that we write to the Electoral Commission and to the Electoral Management Board for Scotland to ask for their views on whether the use of Gaelic on a ballot paper would cause, or could be perceived to cause, any issues relating to the distribution of ballot papers for the referendum next year.

The Convener: It is certainly competent for us to write to the Electoral Commission. The clerk points out that the Deputy First Minister had some discussions with the Electoral Commission and that we have some information about that, but I do not see that being in conflict with the issue of the bill being before the Parliament, so in terms of competence John Wilson's point is valid.

Do other members support John Wilson's proposals?

Angus MacDonald: I would be content with that.

The Convener: Are members all content?

Members indicated agreement.

The Convener: As the witnesses can hear, we will continue the petition and will write to the Scottish Government to get its views. Both witnesses raised some very interesting points, and I thank them for coming along and giving evidence to the committee today. We will keep them up to date with developments, and we thank them for giving up their time.

I suspend the meeting for a change of witnesses.

11:20

Meeting suspended.

11:21

On resuming—

Alzheimer's and Dementia Awareness (PE1480)

The Convener: The third petition today is PE1480, by Amanda Kopel, on behalf of the Frank Kopel Alzheimer's Awareness Campaign, on Alzheimer's and dementia awareness. Members have a note by the clerk and the SPICe briefing on the petition. I welcome the petitioner. Thank you for coming. Dr Susan Logie is a consultant in old age psychiatry.

I invite Mrs Kopel to make a presentation of around five minutes. Graeme Dey is also here to support the petition. Mr Dey is free to intervene as he wishes when we are going through the questions.

Amanda Kopel (Frank Kopel Alzheimer's Awareness Campaign): Good morning and thank you very much for allowing me to speak to you today.

Ladies and gentlemen, I have lost my husband, even though he is still living. Alzheimer's and dementia are a tough subject. Those two words bring fear to the hearts of so many people: to the ones who live with it, for whom it is a true hell on earth, and to the families of those who suffer, who try to bring back the person they knew and loved. We lose them before they die.

My husband, Frankie, was a professional footballer who started his career in 1964 as a 14 and a half-year-old apprentice at Manchester United. He went on to play for Blackburn Rovers, Dundee United and Arbroath and finally became assistant manager at Forfar Athletic. He did not earn the enormous wages that the footballers of today earn. When his football career ended in 1983, he continued in full-time employment until a

few years ago. He was diagnosed with vascular dementia the week before his 60th birthday. At that point, he was a very fit, active man.

Frankie turned 64 in March this year. This man when asked now does not even know how to sit down, never mind how to kick a ball. Every day is a battle, which Frankie is never going to win, with his progressive terminal illness. It is also a constant battle for me with officials and red tape—one that I hope will change after today.

The disease behaves differently in each person's body. It is no respecter of age, creed or colour or how much money you have in your bank account. Frankie did not ask to be diagnosed with dementia, but I find that he is discriminated against by having to pay for personal care because he is under 65. Free personal and nursing care was introduced in Scotland in July 2002 for people over 65. We pay almost £350 per month for his personal care, which covers 45 minutes' input each day to give him a shower in the morning and get him ready for bed at night.

I would love to have been able to continue to carry out my husband's personal care, but his dementia has progressed to the point at which that is no longer possible. It should not matter whether someone is 55 or 75: all personal care should be free in Scotland to all people with dementia when they are assessed as needing it, regardless of the figure on their birth certificate.

I, like others in my situation, am asking, begging and pleading for change to enable us to live what precious life we have left together to the full. I am asking for change so that I do not have to make choices, such as whether to take Frankie out for a run in the car—which he enjoys—to get a coffee and cake, or to buy a Kylie so that he does not lie on a urine-soaked bed. Such a change would ensure that our loved ones' human dignity and safety is not compromised.

The lack of provision of free personal care for people with dementia under the age of 65 needs to be reviewed urgently. No one under 65 with dementia should be discriminated against. Ladies and gentlemen, I know that I am not the only one who has lost a loved one to this awful disease. I need to know that I have done everything in my power to ensure that Frankie has the best possible quality of life. I cannot make the relevant changes, but I know that you can, and I ask you now to please start making those changes today. Thank you.

The Convener: Thank you, Mrs Kopel, for that very moving account of your family circumstances. You touched on what seems to be a key issue, which is the need to extend free personal care to dementia sufferers of any age, rather than

providing it only for those over 65. Is that the key point of your petition?

Amanda Kopel: Yes—it is about free personal care for those under 65. What does age matter when it is the same illness? It is the same disease whether someone is 65, 66, 76, 45 or 46, but those under 65 have to pay for personal care while those over 65 do not. Many more younger people—those under 65—are being diagnosed with dementia, and, as I think Dr Logie will agree, some of them are not even reaching 65 because of what is happening in their brain. They have a very strong body, but their brain is rapidly dying. Seven, eight or nine years ago, I was one of those people who thinks that dementia is only an elderly person's disease, but now it has come to our door, and it is a horrible disease. I really feel that those under 65 are being discriminated against because of their age.

The Convener: Do you feel that the public are aware of the huge problems that dementia creates, particularly as we are all growing older, which may lead to greater problems in the future? Dr Logie may want to say something on that too.

Amanda Kopel: Since we started the campaign, because of my husband's profile, I have become aware that dementia can happen to anybody. There is now a great deal of awareness about dementia, and you are right that a lot of people are now living longer. Unfortunately, some of those under 65 are not being afforded the opportunity; they will be dead before they are 65 so they will not even get their free personal care.

The Convener: Dr Logie, on the issue of those under 65, I suppose that the public are generally aware that, as people grow older, there is a greater chance that they will develop dementia, but they perhaps do not understand that the disease also affects those under 65. Is the number of patients in Scotland who are under 65 and have dementia growing?

11:30

Dr Susan Logie (Susan Carnegie Centre, Stracathro Hospital): I do not know whether it is growing, but I think that there is probably greater awareness. The Scottish Government's figures show that there are about 2,500 people with dementia under 65 in Scotland, and about 200 people a year are diagnosed with it.

Dementia covers a wide variety of different illnesses. It can sometimes take longer for people under 65 to get a diagnosis because the condition is much rarer at that age. Someone might present as having depression, or they might see a neurologist, and it can take quite a long time for them to be diagnosed.

People under 65 who have dementia also face a particularly difficult financial situation. It is often a very insidious illness, so they may have been underperforming at work for years or not paying their tax properly. If they run their own business, they might be running into financial difficulties because they are not performing as well as they usually would. They may have mortgages or school-age children, or they may have elderly relatives themselves. They have not reached pensionable age and may not have been able to save for their old age. They are often in the prime of life and would be expected to have reached their highest-earning capacity, and then they develop these illnesses. In my experience, such people struggle more financially than those over 65 do.

The Convener: I suppose that this might be a difficult question, but how do we know the number of people who are undiagnosed? By definition, that is almost impossible to do. It may be that even experienced GPs do not necessarily pick up the fact that a 30-year-old is suffering from dementia. That must be a real issue in our health service in Scotland.

Dr Logie: That is right. More often, it affects middle-aged people: two thirds of those with a diagnosis of dementia under 65 will be over 55. However, those people might turn up looking as if they might have stress-related memory difficulties or depression, and women might be misdiagnosed as having menopausal problems. Even with the best will in the world, it can take a while to diagnose such cases, because the diagnosis involves looking at global cognitive deterioration over at least six months. At present, the GP needs to see a history of things deteriorating over a considerable period of time before they can make the diagnosis.

The Convener: Is the diagnosis very categoric? Do you need to use brain scan technology?

Dr Logie: Yes—we would usually do some detailed neuropsychological testing of someone that age. A psychologist would see them and study the performance in different areas of their brain, and there will be scanning. People of that age may need more intensive investigations in order to exclude other causes, so they may need to be seen by a neurologist. It is often quite a difficult diagnosis to make.

The Convener: Thank you. Does Graeme Dey wish to make any points at this stage?

Graeme Dey (Angus South) (SNP): No—the points have been very well made. I would be interested in exploring, beyond the issue of free personal care, how geared up the health service is to cope with this group of people.

Dr Logie: This group of people is often looked after by old age psychiatry services, which is perhaps a bit awkward. Most such services in Scotland will be the same as ours, in which we look after everybody over 65 with any mental health issue and people under 65 with dementia. They are—slightly awkwardly—put in with older people in that sense, yet they are not getting the free personal care that the other people whom we look after are getting. The younger people are often fitter and more active, at least in the beginning, and they may have completely different tastes to older people. There are differences between someone who is 55 and someone who is 85—even, for example, in the type of music that they like to listen to.

In some rural areas, such as Angus, it is difficult to organise specific services for such a small group of people that are also local enough to be accessible. That tension always exists in a rural area. In the cities, it is probably a bit easier to organise specific services or specific day care.

Chic Brodie: On that last point, there are 3,200 dementia sufferers under the age of 65—

Dr Logie: There are 2,500, I think.

Chic Brodie: Is there a localisation? Is dementia in younger people predominant in any one area of Scotland? Does it occur more in the cities or in rural areas, or on the west coast or the east coast?

Dr Logie: Not to my knowledge. There is more alcohol-related brain damage and dementia in the west of Scotland, but I am not aware of any major differences between the major areas.

Chic Brodie: Mrs Kopel, the petition states:

“There are other uphill battles faced by families. Sometimes these battles are with the DWP”

and

“Health Authorities”.

Could you expand on that, please?

Amanda Kopel: Yes. When Frankie was first diagnosed, our GP said, “Right, Amanda, you have to apply now for benefits,” because Frankie was going to lose his job. I had never done that before for him, but I did it anyway. I remember the doctor saying to me that day, “Amanda, once you get everything in place, you can concentrate on Frankie, because this is going to be a very difficult road for you.”

The first gentleman who came to see us became quite good friends with us, but I remember that he walked in that first day and said, “I’m not going to shake your hand, Frank, because you’re an Arab.”

Chic Brodie: I am a Dundee supporter.

Amanda Kopel: You will know exactly what that means, then. Obviously, that comment broke the ice a bit. That gentleman started to complete the form, but his words to us were, "Well, I don't think you'll get anything, Frank, because you look all right." That was the first step we took.

Chic Brodie: Sorry, but was that man from the Department for Work and Pensions?

Amanda Kopel: He was from the local jobcentre and he brought the DWP form. He came back six or seven months later—Frankie had started to deteriorate by then—and he said that we would be able to claim something. He said, "My father had dementia," to which I replied, "Well, you should have known, then. If you knew that six months ago, you shouldn't have made that remark then."

I have had five years of constant battles with the DWP, form filling and going through the rigmarole of someone on the other end of the phone asking whether Frankie can do this or that—for example, go on a bus. I tell them "No. My husband is dying in front of my eyes and he cannot do that." The final word before I got off the phone—I wish I had £1 for every time that someone said this to me—was always, "I hope he gets better soon." In an ideal world, I would love it if, the minute someone phones up those departments and says that they have a husband who has dementia or Alzheimer's, the reply was, "Right. I'll put you on to someone who understands what you are talking about." I would love my husband to improve, but it is never going to happen.

I know that the DWP and the Government are trying to sort out the benefits system to make it simpler for people, but all my energy goes into looking after Frankie. I should not—

Chic Brodie: What help are you getting?

Amanda Kopel: I have a support worker coming in from Alzheimer Scotland—Mrs Brodlie—who is very good. I have a good family and good friends. Frankie goes to day care five mornings a week, usually from 10 o'clock to 1 o'clock, to give me a wee bit of respite. However, I was told last week that, because he is deteriorating and because they do not have dementia status, they are now struggling to cope with him. He has gone to that day care for the past year and a bit, but he is now going to have to go somewhere else. As Dr Logie said, the only places that Frankie can go to have people in their late 70s, 80s and 90s. I feel that they do not have facilities for the under-65s.

Frankie and I have been married for nearly 45 years. We grew up together; in fact, we have been together for 50 years—a lifetime. I want to do the best I can for him. If that means keeping him at home until he passes away, that is what I want. I

would like to keep him at home and not to put him in a nursing home, where he will not get the care that I will give him.

I get £3.81 a day carers allowance from the DWP for looking after my husband. That is because I am 63 and I get my small state pension. I do not get the full married woman's state pension. I get £42-odd a week from the Government. According to the rules and regulations—which I understand—because I did not pay enough big stamps in my working life, I am not allowed to claim the full carers allowance. I get £3.81 a day, which is insulting.

We still have a mortgage to pay. We pay gas and electricity. Because of Frankie's condition, our heating is normally on; even in the summertime, it is on low. The bills are going up. We still have to have a phone. Because his dementia is changing, his taste buds and so on are changing. We still have to have our insurance. There is wear and tear on things. Things add up, such as mattress protectors—we have to have two or three of those—and duvets and blankets, because he is now doubly incontinent. When he gets up during the night, he can go from bed to bed. If he has soaked the bed, I have to put him in another bed. It is very stressful for me, but I love this man to bits.

The Convener: That was a vivid and distressing comment on the finance side, which must add so much extra pressure to you.

Amanda Kopel: It does. A few years ago, they said, "Frankie, you're allowed working tax credit", so we filled in the forms and so on. About 18 months ago, we were told, "You have to repay it because we made an error." It was nearly £4,000. We were told that we should have gone on to pension credit. Even up until two weeks ago, they were still hounding my husband for the overpayment.

I started to pay some of it back, but expenses and so on are getting on top of us. Our solicitor, who is trying to fight it, argued with the DWP that, if it had given us the right information first time round, it would have put Frankie on to pension credit, and the amount owing to the state if the DWP had stopped it would have been in the hundreds, which would have been repayable. It is like anything in life: if you have never been in that position before, you do not know.

The Convener: It may be that you are already dealing with it, but it may be one for your local MSP or MP to take up. I would certainly recommend that you do that.

Amanda Kopel: Yes. Thank you. Two or three months ago, Atos sent us a brief letter—I know that it had to do it—to say that one of Frankie's benefits would be stopped unless we could

provide it with details about how bad he was and come through to a tribunal in Edinburgh to get him back to work.

11:45

The Convener: I certainly recommend that you seek advice from elected members.

Amanda Kopel: I am trying to make the point that these are all stressful situations. I should not have to be battling that. Not only is my husband in this battle but I am battling for him. When these other things come in day by day—they come in about once a week—it takes away from the care that I want to provide for my husband.

Jackson Carlaw: Thank you for bringing your petition to us this morning. You have identified an area that you have ably demonstrated is overlooked currently within the system. We all understand that, sadly, your experience is one that ever more Scots will face. It is no longer something that is set to happen in the future; it is happening to families across Scotland now. Indeed, it might not be an exaggeration to say that at some point every family will have a direct rather than indirect experience of it. In fact, Alzheimer Scotland estimates that 3,200 people under the age of 65 have dementia.

As Dr Logie said, the emerging group will be people in their late 40s who may well be substance misuse recoverers of some sort, for whom the onset of dementia at an earlier stage in life than we might have anticipated is an unexpected consequence. I cannot presume to know the view of the committee, but I think that this is certainly a matter that will be pursued.

I think that you have partly answered this question. Clinicians say that there is no breakthrough treatment on the immediate horizon. As health spokesman for my party, I regularly meet clinicians and ask the question. Whenever I ask, I am always told that it is 15 years away. When I asked seven years ago it was 15 years away and it is still 15 years away now. Some major breakthroughs that were anticipated had to be withdrawn at the last minute, because unforeseen consequences were found. Developing such treatments is a long slow process.

I am interested in Mrs Kopel's experience. Given that more families will have to face Alzheimer's and dementia, is the education and training for families and their preparedness currently pretty inadequate? Over and above the issues directly addressed in your petition, which calls for support to be provided for people with dementia who are under the age of 65, something more fundamental needs to be looked at to aid the early understanding of families who will have to

face the issue and to give them comprehensive guidance about what they might need to do and how they might need to access support.

Amanda Kopel: Definitely. There has to be more education and awareness. I was asked to speak at a Royal College of Nursing conference on dementia earlier this year to say what it was like from the point of view of a younger person with dementia. The feedback that I got from the delegates was amazing. They said that they learned quite a bit when I told them our story. Alzheimer's and dementia is now getting mentioned more often, but it must be more of a priority across the board to educate people about it, even in schools and suchlike. The young people now are the possible future sufferers of dementia.

The Convener: Unfortunately, we are a little short of time. As no other members have questions, I ask the witnesses to hold on for a few minutes as we will look at the next steps on the petition.

I think we all agree that Mrs Kopel's situation with her husband is a very moving example. We will certainly contact the Scottish Government to ask for its views on the petition. We might also clarify whether there are any moves to reduce the age of eligibility for free personal care. I think that the Government has made some statements about that in the past and it might be worth getting some clarity, because Mrs Kopel made the point that it is the absolutely vital aspect of care. We will also seek the views of Alzheimer Scotland and other groups.

I seek the views of committee members. Do you agree with that course of action?

Jackson Carlaw: Yes, I agree with that. The number of people in this group is growing, but I do not think that the numbers are growing in such an alarmingly unmanageable way that they could not be accommodated within the system.

Given that this is a devolved Parliament and some matters are still reserved to Westminster, I would be interested to know what liaison there is between the two health departments in trying to pull together the necessary advice for Alzheimer's sufferers. In the first instance, I would be interested to know the Scottish Government's view on that. It may well be that the issue is made harder for people than is necessary because of the political process that we have put in place. If so, that would be most unfortunate and we ought to be able to correct our approach. Such a situation would be unique to the devolved Administrations, given that in England and Wales health matters are under the control of a single entity.

The Convener: Are there any other action points that members wish to suggest? Do

members agree to the course of action that has been suggested?

Members *indicated agreement.*

The Convener: As you have heard, we are enthusiastic about pursuing the petition, so we will write to the Scottish Government and a number of other agencies. Obviously, we will keep you up to date with developments.

I thank Mrs Kopel for appearing before the committee. I know that it must have been difficult to explain your very difficult family circumstances with regards to your husband. I also thank Dr Logie and Graeme Dey for their attendance.

I will suspend the meeting for a minute to allow our witnesses to leave.

11:51

Meeting suspended.

11:52

On resuming—

Current Petitions

School Bus Safety (PE1098 and PE1223)

The Convener: Agenda item 3 is consideration of current petitions.

Petitions PE1098 by Lynn Merrifield, on behalf of Kingseat Community Council, and PE1223 by Ron Beaty both relate to school bus safety. We have been joined by Stewart Stevenson, who has an interest in the issue. Members should have before them a note from the clerk and the submissions.

Does Stewart Stevenson want to make a brief submission to the committee?

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I will just make the rather obvious point that the issue remains as important and urgent as when it was first raised in the Parliament. I observe that progress is being made elsewhere. In the third week of August, south of the border, the City of York Council decided to change its contracts to require all school buses to have seat belts. That is a contribution to the discussion, although the subject of school bus safety relates not simply to seat belts but to issues such as the external branding of the bus.

I am here simply to encourage the committee to keep up the pressure on the issue, which remains important not only for the petitioners and my constituents but for people throughout Scotland. I hope that my presence today ensures that we continue to keep the issue on the agenda and progress it in a vigorous way.

The Convener: I know that Mr Stevenson had some involvement with transport in a past life, so it is good to have him with us today.

We were previously promised that we would be sent a Scottish Government report that was to be completed by the end of June, but I am conscious that we have not yet received it. Before throwing open the discussion to members, let me say that, as these are both important petitions, I think that it would be sensible to invite Keith Brown to appear before us at a future meeting. However, I want to ask the views of committee members on that before proceeding.

Chic Brodie: I agree with that suggestion. As I have said elsewhere, for the life of me I do not understand why the issue has not been progressed much more quickly. I know that there are some ramifications for Westminster decision

making, but for the life of me I do not understand why the issue has taken so long.

The Convener: Are colleagues satisfied that we continue the petitions and invite Keith Brown to appear before us at a future meeting?

Members *indicated agreement.*

The Convener: I am sure that Stewart Stevenson will note our interest in these important petitions. When Keith Brown appears before us, Stewart Stevenson is welcome to attend that meeting and to speak to the petitions.

Stewart Stevenson: Thank you. I will certainly try to schedule that.

I hope that the committee also recognises the continuing commitment of Ron Beaty, who once again is in the public gallery. He has had to travel from the north of Scotland on a regular basis at his own expense. He is by no means the only person to whom the petition matters, but his commitment to the issue is very substantial indeed.

The Convener: I am sure that, as a committee, we will want to extend our thanks to Mr Beaty for giving up his time to be present in the public gallery today.

Betting and Loan Shops (Deprived Areas) (PE1439)

The Convener: The next petition is PE1439, by Jonathan McColl, on betting and loan shops in deprived communities. Again, members have a note from the clerk and submissions relating to the petition.

In my view, this is a novel and interesting petition that has prompted quite an interesting discussion. However, some of the issues are reserved and the Scottish Government has made it clear that there is no role for planning. Unfortunately, I cannot see any further work that the committee could carry out, but I am always open to thoughts and ideas from other committee members to see how we could proceed. My initial thoughts are that, unfortunately, we should close the petition because I cannot see any further action that we can take. What are committee members' views?

Does silence mean assent? Do members agree that we close the petition on the basis that we have come to the end of the road in the fruitful work that we can do?

Members *indicated agreement.*

The Convener: I place on record my thanks to the petitioner for what was a very interesting petition indeed. Personally, I would have liked to see what more we could have done, but I cannot see any further scope for work by the committee.

Flood Insurance (PE1441)

The Convener: The next petition is PE1441, by David Crichton, on flood insurance problems. Members should have a note from the clerk and the submissions. Members will recall that Mr Crichton gave evidence to the committee and we had a debate in the chamber that many members contributed to.

As members will recall, the issue is that the United Kingdom Government basically needs to underwrite the insurance firms that protect individuals who build in flood areas. My understanding is that the UK Government has now agreed a scheme called "Flood Re", but it may take a couple of years before that is fully implemented due to the need to clarify European state aid rules in discussions with the European Union.

Again, this is a very interesting petition, but things seem to have moved on. It seems to me to make sense to refer the petition to the Rural Affairs, Climate Change and Environment Committee under rule 15.6.2.

Angus MacDonald: The Rural Affairs, Climate Change and Environment Committee has scheduled the issue of flooding into its work programme for the next few months. This would be a good opportunity to refer the petition to that committee.

Chic Brodie: Having led the chamber debate in the convener's absence, I subsequently wrote to the minister as an aide-mémoire so I know that the minister is pursuing the issue with Westminster. I sincerely hope that we can bring forward the flood re scheme that the Westminster Government and the Association of British Insurers are discussing.

The Convener: Clearly, the much wider issue around climate change, which is beyond the scope of our discussions today, is an issue that we are all worried about for the future.

Chic Brodie: We discussed that issue during the debate. I sincerely hope that we will not continue to subsidise to the same extent those areas elsewhere that are more severely affected.

The Convener: Do members agree to the course of action that I outlined?

Members *indicated agreement.*

Miscarriage (Causes) (PE1443)

The Convener: The next petition is PE1443, by Maureen Sharkey on behalf of Scottish Care and Information on Miscarriage, on investigating the cause of miscarriage. Members have a note from the clerk and the submissions.

Again, this was an excellent petition, on which I think we have tried to touch every base. The Scottish Government has stated its clear support for the current Royal College of Obstetricians and Gynaecologists guidelines. On the whole, the organisations that we contacted did not support investigating whether there should be more testing for women. That is unfortunate, as the petitioner makes some good points, but we have to go with the evidence before us.

I see no action other than to close the petition, but I am open to persuasion.

12:00

John Wilson: I suggest that we write to the Royal College of General Practitioners again and ask it about its patient-centred care objectives. It has outlined them in its response, but we should inquire further. It makes reference to the e-learning module on early pregnancy loss, which is on its website and is free to members to access. We should ask how many GPs access that module and whether any issues have been raised about the number of GPs who take up the opportunity. It is like having a leaflet in a doctor's surgery—the information gets out only if people actually read the leaflet.

My opening comment on the petition concerned patient-centred care. I would like to know how the Royal College of General Practitioners measures the patient-centred care in relation to the patient's request to a GP or a consultant for early testing in relation to miscarriage. In my view, that request might conflict with the patient-centred care philosophy that, in its response, the Royal College of General Practitioners claims to have.

The Convener: Do members agree to the suggested action?

Members indicated agreement.

Organ Transplantation (Cancer Risk) (PE1448)

The Convener: PE1448, from Grant Thomson, is on improving awareness of the cancer risks in organ transplantation. Members have a note from the clerk and the submissions.

Chic Brodie: I think that we should close the petition on the basis that the three Scottish transplant units and the Newcastle unit have implemented the Scottish transplant group's recommendations.

The Convener: Do members agree to that proposal?

Members indicated agreement.

Hyperemesis Specialist Nurses (PE1454)

The Convener: PE1454, by Natalie Robb, is on hyperemesis specialist nurses. Members have a note by the clerk and the submissions.

I note that the Scottish Government is setting up a Scottish hyperemesis network, and that new guidelines are to be commissioned. This is a thoughtful petition and I think that we have pushed the issue as far as we possibly can and have, I hope, ended up with some sort of positive result. Are members content to close the petition, on that basis?

Members indicated agreement.

Vacant Land in Private Ownership (PE1465)

The Convener: PE1465, by Tony Ivanov, is on maintenance of vacant land in private ownership. Members have a note from the clerk and the submissions.

I think that we have little choice but to close the petition, because there are already relevant powers in place and the Scottish Government is stating that it will not amend them. However, again, I am open to persuasion.

Jackson Carlaw: I am tempted to support your proposal, convener, but I feel that the response from the Government represents a complete abdication of responsibility. We have gone around in a huge circle and have ended up where we started. We knew that the relevant powers existed; the issue was that they were not being used or enforced. That was because the people who had the opportunity to do so believed that there was a degree of confusion about whether they could do so, and we tried to establish when the powers had been used.

In many ways, I feel that we have failed the petitioner. I am not any clearer, at the end of our investigation, about why the situation exists, what is going on or what future remedy exists. I do not know what more to do, but I feel that the Government's response fails to meet the fact that, whatever it might say, the issue is not being remedied on the ground.

The Convener: I have a lot of sympathy with Jackson Carlaw's point. If there is further action that the committee can take in order to cast some light on the issue, I would be up for doing that.

John Wilson: Towards the end of his letter to us, Mr Ivanov spells out the response of his local authority. When his local authority threatened to go on a landowner's land to clean it up, it was threatened with legal action by the landowner for trespass. If such confusion exists at local authority level, it is clear that there needs to be a change in

the guidance that is issued to local authorities and the action that is taken.

In one of the bullet points in his response to the committee, the policy manager in the Government's directorate for local government and communities says:

"We are not aware of any evidence that Amenity Notices are routinely ignored or not complied with."

At the same time, the petitioner is being told by his local authority that it is not willing to take any action in case legal action is taken against it.

As Jackson Carlaw has pointed out, there seems to be confusion out there. I argue that, if the situation is confusing for local authority officials and they feel that it is inappropriate to take legal or enforcement action against landowners, there is something wrong with the guidelines. I suggest that we write back to the Government, make it aware of the petitioner's response and seek clarification of whether the directorate for local government and communities gathers information from local authorities or has surveyed them to find out whether there are problems with enforcement notices being issued.

The directorate says that

"less than 1% of enforcement notices result in prosecution."

Is that because of the failure of local authorities to take enforcement action? Is it realistic to say that, with 99 per cent of enforcement notices, the issue is resolved without a prosecution? We should seek clarification of those issues before we close the petition.

The Convener: That is a good point.

Angus MacDonald: It is not only unfortunate but extremely disappointing that the Scottish Government has no plans to amend section 179 of the Town and Country Planning (Scotland) Act 1997. I agree with Mr Ivanov that

"the act is incomplete without the powers to see it being fully implemented."

I would not feel comfortable with closing the petition, as I think that we still need further clarification from the Government. The local authorities need clarification so that they can implement the act.

Chic Brodie: I support that. I have raised a parallel issue with the Government regarding listed buildings that the owners have just walked away from and left. I think that the resistance of local authorities is partly to do with the cost of legal action in the event that they have to take it. That leads to their saying, "We'll do nothing," which is unacceptable. I intend to discuss the matter in detail with the Government, because there are many buildings—certainly in my part of the world—that are just not tended or looked after.

Finding the landowner is almost impossible and the council will not get involved because of the cost. I suspect that the same is true with vacant land, so I support the view that we should keep the petition going.

The Convener: Jackson Carlaw made a good point when he said that it is important that we go the extra mile for every petitioner. I think that we all feel uncomfortable about the idea of closing the petition at this stage, so let us take up John Wilson's suggestion and pursue matters with the Scottish Government. Although the petition deals with vacant land rather than buildings—

Chic Brodie: I understand. I am just saying that it is a parallel issue.

The Convener: While we are on the subject, I refer Mr Brodie to my proposed member's bill on dangerous buildings, which should resolve the problem if it gets through Parliament, but that is by the by.

A90 Dualling Project (PE1478)

The Convener: The final current petition is PE1478, by Murray Cooper, on the A90 Balmedie to Tippetty dualling project. Members have a note by the clerk and the submissions.

Unfortunately, we have been told that what is proposed is not possible under the current timescale—that is the feedback that we have got from the local authority and Transport Scotland. I invite innovative views from members on how we can progress the petition.

John Wilson: I suggest that we close the petition but that we also send a letter to Transport Scotland to ask it to take on board the petitioner's views. If an early start could be made on the Balmedie to Tippetty project, that would assist in progressing the petition, but it is clear from the responses that we have received that the financial implications of decoupling the project from the Aberdeen western peripheral route and re-advertising the projects separately would result in unnecessary delays and additional costs. Therefore, I recommend that we close the petition and that we ask Transport Scotland to consider the timetabling with a view to making an early start on the Balmedie to Tippetty project.

The Convener: Do members agree to that course of action?

Members indicated agreement.

Witness Expenses

The Convener: Thank you all for your attendance.

Meeting closed at 12:11.

12:10

The Convener: Agenda item 4 relates to witness expenses for the round-table event on PE1463 on effective thyroid and adrenal testing, diagnosis and treatment. Does the committee agree to delegate to me, as convener, responsibility for arranging for the Scottish Parliamentary Corporate Body to pay, under rule 12.4.3, any expenses of witnesses for that event?

Members *indicated agreement.*

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by APS Group Scotland.

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

For details of documents available to
order in hard copy format, please contact:
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

e-format first available
ISBN 978-1-78351-688-9

Revised e-format available
ISBN 978-1-78351-704-6