The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

# PUBLIC PETITIONS COMMITTEE

Tuesday 18 February 2014

Session 4

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## PUBLIC PETITIONS COMMITTEE
**4th Meeting 2014, 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:**

Mark Drakeford (Welsh Government Minister for Health and Social Services)
Gordon Mclean
Kathie Mclean-Toremar
Elaine Smith (Coatbridge and Chryston) (Lab)
Pat Vernon (Welsh Government)

**CLERK TO THE COMMITTEE**

Anne Peat

**LOCATION**

The Robert Burns Room (CR1)

# Scottish Parliament

## Public Petitions Committee

*Tuesday 18 February 2014*

[The Convener *opened the meeting at 09:00*]

## Current Petition

### Organ Donation (Opt-out System) (PE1453)

**The Convener (David Stewart):** Good morning, ladies and gentlemen. My name is David Stewart and I am the committee convener and a Labour member for Highlands and Islands. I welcome you to the meeting and, as always, I ask you to turn off mobile phones and electronic devices because they interfere with our sound systems. No apologies have been received.

Agenda item 1 is consideration of a current petition. PE1453, by Caroline Wilson on behalf of the *Evening Times* and Kidney Research UK, is on the introduction in Scotland of an opt-out system for organ donation. This morning the committee is taking evidence via videoconference from, from the Welsh Government, Mark Drakeford, who is the Minister for Health and Social Services, and Pat Vernon, who is the head of policy for organ and tissue donation legislation.

I remind members that because of the technical aspects of the video link there will be a delay between members' questions and witnesses' responses, and the other way round. It is important that no one try to speak over anyone else, so members should speak only when called to do so and should not interrupt colleagues or witnesses because that would affect our ability to hear the answers.

I welcome the minister, Mr Drakeford, and Ms Vernon. I ask members to introduce themselves; I have already done so.

**Chic Brodie (South Scotland) (SNP):** I am an SNP member for South Scotland.

**John Wilson (Central Scotland) (SNP):** I am an SNP member for Central Scotland.

**David Torrance (Kirkcaldy) (SNP):** I am the SNP member for the Kirkcaldy constituency.

**Anne McTaggart (Glasgow) (Lab):** I am a member for Glasgow.

**Angus MacDonald (Falkirk East) (SNP):** I am the SNP member for Falkirk East.

**Jackson Carlaw (West Scotland) (Con):** I am a Conservative member for West Scotland and the Conservative health spokesman.

**The Convener:** I hope that the witnesses can hear us. The minister will make a brief opening statement of about five minutes. After that, I will ask a few questions and then my colleagues will take turns asking questions. We have approximately one hour, although we do not need to use all of our time. Thank you very much for co-operating with the videoconferencing.

**Mark Drakeford (Welsh Government Minister for Health and Social Services):** Thank you for the invitation to give evidence.

Organ donation saves lives; therefore, our increasing the rate of organ donation will allow us to save more lives in Wales. Last year 35 people in Wales died on the organ donor waiting list; such deaths are the key motivation for the changes that we have brought about.

Over the past 20 years, a great deal has been achieved in improving medical practice in organ donation, but as the latest United Kingdom-wide strategy, "Taking Organ Transplantation to 2020" says, if we are going to make progress we need continuing evolution in practice, and a revolution in consent rates.

We believe that one way to improve consent rates in Wales is to move to a soft opt-out system. From 1 December 2015, citizens of Wales will have three choices to make in relation to organ donation: they will be able to continue to opt in and to put their names on the organ donor register; they will be able to opt out and to have that decision recorded in the newly fashioned register; or they can choose to do nothing, in which case they will know that that will mean that their consent to organ donation will be deemed.

It is clear to us from evidence that we have taken that, in ethical terms, deemed consent is not a poor person's consent, but is absolutely as valid as the other two forms of making known one's views.

We in Wales have been in a prolonged debate over the matter; deemed consent is not something that we have moved towards quickly. The debate at National Assembly for Wales level began in 2008 and has progressed through a number of committee inquiries and pieces work with the public. By the 2011 National Assembly elections, the debate had crystallised sufficiently that three of the four political parties that are represented in the National Assembly included in their election manifestos a commitment to legislate to bring about a deemed consent system.

Post 2011, an extended period took place in which we went through a white paper, a bill and the whole Assembly process before moving to the full legislative process. We are now in a two-year period of continuing engagement and education to ensure that by the time the legislation goes live on 1 December 2015 we will have done everything that we can to ensure that people in Wales are aware of the changed law and the new choices that will be available to them.

We think that the legislation will make a modest contribution to increasing organ donation. We expect 15 extra donors a year as a result of the legislation, and that from the average donor will come three organs for donation; we expect in an average year 45 more organs for donation as a result of the legislation. That will make significant further inroads into the lists of people who are waiting for organs. The bill has been a popular success and has substantial and growing support among the Welsh population. We are confident that by the time it is fully implemented we will have an informed public and a regime that will allow us to increase levels of donation.

**The Convener:** Thank you very much for explaining that so clearly. We are now going to questions and points by members. Ms Vernon, if you wish to contribute at any time, please catch my eye and I will be very happy to take you on board for questions and points. Again, I record my thanks to the *Evening Times* for the work that it has done on the campaign, which has raised awareness very well in Scotland. It is a good example of how our petitions system works. As you know, we visited The Welsh Parliament to watch your petitions system; you have a similar and excellent system.

You have kind of covered my first question but—for the record—a useful starting point for us would be your providing an exact definition of "soft opt-out".

**Mark Drakeford:** As I said, when the Human Transplantation (Wales) Act 2013 is implemented people in Wales will have three choices. One choice will be to take no action, which will be to choose to have one's consent to organ donation deemed—what we call the a soft opt-out system. However, in our legislation there is a continuing role for the family, so donation can never go ahead without the involvement of the family. The family's role in law, in Wales, will be that at the point of donation, when a person has had their consent deemed, their family will always be asked whether they have better information about the potential donor's views. If the family knows that although the person had not opted out they would not have wished donation to go ahead, they will be able to contribute that information, in which case donation will not happen. The family will be asked to represent not their point of view but what they know of the potential donor's views. That is why the word "soft" comes into our system.

**The Convener:** Thanks, that is helpful. Can you tell me a little more about the evidence that the welsh Parliament took? How convincing was the evidence about soft opt-out?

**Mark Drakeford:** We took extensive evidence about the experience elsewhere in Europe, in particular. The University of York had previously conducted a broad review of the available literature, and we secured an update of that through one of the London colleges. It was clear to us that there is a strong association between an opt-out system and increased levels of organ donation. When you get down to the level of the precise system that any one country operates, you will always find contextual and cultural factors that mean that it is not possible simply to transpose the experience into your own context. However, if you do a meta-analysis and consider the picture across all those experiences, you will see that there is no country in which a move to an opt-out system has not been associated with enhanced levels of organ donation. We were confident that, at that level, the evidence was secure.

**The Convener:** As you know, Spain's objective, like the objective of every country, is to have higher donation rates for organs and tissues. This is not a zero-sum game, of course, but Spain found that the solution was to ensure much better co-ordination of transplants, rather than to have an opt-in or an opt-out system. Of course, I accept that the issue is not about pitching one against the other, but about considering what is most appropriate for a country. What is your view of the Spanish example?

**Mark Drakeford:** That is an important point. As I tried to say in my opening remarks, we have never claimed that a move to an opt-out system, by itself, is sufficient to drive up rates of organ donation. It is one among a series of other contributions that need to be made. Better alignment of the system, making the practical arrangements work better and ensuring that there is proper expertise among people who advise families in that incredibly difficult set of circumstances all contribute.

Our conclusion, though, is that much of what was achieved in Spain through better alignment of different aspects of the system has already been achieved across the United Kingdom as a result of the significant work that has gone on over the past 20 years. When I mentioned what the new strategy says about evolution in practice, I meant to suggest that there are no huge gains to be made through radical new changes in practice; the real gain is to be made in the realm of consent. That is why we have taken the action that we have taken.

**The Convener:** Thank you. That is a useful point.

Ms Vernon—do you wish to add anything at this stage?

**Pat Vernon (Welsh Government):** I cannot add much to what the minister has said. As he said, we reviewed the international evidence and had a colleague from one of the London colleges consider the evidence that has been published since the previous study, and we concluded that an opt-out system is strongly associated with increased donation, which we feel is quite a strong indication in favour of the system.

**Chic Brodie:** How do you guarantee that the donor's instructions are carried out and are not contested by the family? Can you enlighten us about the views of any interest groups that participated in the consultation?

**Mark Drakeford:** That was a subject of considerable debate during the committee stages of the bill, because our law is predicated on the views of the donor being paramount. How can a donor ensure that their views prevail?

09:15

There are two essential safeguards in our system. First, people will still be able to opt in or out. A strong supporter of organ donation who does not want any ambiguity about their view will be able to register as having opted in and that view will prevail. A person who is anxious that his or her view might in some way be contested by a family member whom they know has a different view—family members do not always share views; not all families are straightforward—will, under our act, be able to appoint a representative who will exercise consent on their behalf. People who have such anxieties will be able to choose anyone they like in whom they would have confidence to represent their view. That person will make the decision on their behalf—they will give express consent. Our legislation provides that safeguard for people who definitely do and people who definitely do not want to be donors and who want their representative to be able to represent that.

**Chic Brodie:** That was very interesting. Thank you.

I would like to know about the involvement of faith groups and interest groups. What was their stance on the matter in the run-up to the enactment of the legislation?

**Mark Drakeford:** We had a lively debate with faith communities in Wales. Some faith groups simply take the view that deemed consent is not consent. In many ways, there is nothing that I can—or would wish—to do to persuade people who are of that point of view to share mine. We must respect that view.

However, faith groups in Wales—whether we are talking about faith groups of a Christian persuasion or those of a Muslim persuasion; we have a substantial Muslim community in Wales—have made it clear that they are all in favour of increasing rates of organ donation. They are very keen to work with us in the post-legislative context to ensure that members of their faiths work positively with the new law.

During the two years for which education and information will be provided, we will take extra steps to reach faith groups in which we believe levels of understanding of the law need to be improved. For example, you will know that the need for donation is higher among people who are of Muslim heritage than it is among other parts of the community, yet rates of donation are lowest among people of Muslim faiths. We will do specific work with Muslim communities in Wales, including faith leaders, to ensure that the two-year period is used to improve understanding of the scheme and—we hope—to improve participation in it thereafter.

**Chic Brodie:** That, too, was interesting.

I have one last question. You have done a lot of work—excellent work, it seems—to communicate what the legislation will do, but have you ascertained whether there has been a significant shift in public support for your planned programme as far as the number of people who support the opt-out is concerned?

**Mark Drakeford:** Yes, we have. Opinion testing is carried out regularly. That is done independently of the Government, although it is funded by us. The most recent figures show a significant shift in favour of the new law, and reductions in the number of people who said that they were undecided and in the number of people who said that they would opt out as a result of the new law. That shift in opinion has been most pronounced among younger age groups. In other words, the more we have talked about the issue and the more people have debated it around their kitchen tables, the more opinion has shifted and settled in favour of the new regime. We will continue to track those changes over the next two years.

**Chic Brodie:** Thank you.

**Jackson Carlaw:** Good morning, minister. It sounds as though you have resolved many of the issues with which we have been wrestling and continue to wrestle, so I doubt that any of our questions this morning is not touching on the very subjects about which you have already had to come to an agreement.

You said that the three main parties went into the last election committed to a change in the system. Was that by coincidence, or was there some consensus and agreement between the parties to approach the issue in that way?

**Mark Drakeford:** Three of the four main parties at the Assembly had a commitment in their manifestos. It was not done by design or pre-agreement, but it was the product of the four years that preceded that election during which all parties in the Assembly had been involved in the exploratory work at committee level. The successive reports that were produced within the Assembly were all produced on a cross-party basis, not always with everyone agreeing but with all parties involved in the production of those reports. Among three of the parties, there was a feeling that the state of public opinion in Wales had reached a point of crystallisation and it was possible to move from debate to positive action.

**Jackson Carlaw:** Was it important for the success of the legislation that that broader consensus among a number of parties existed at the point at which it was decided to move forward with legislation?

**Mark Drakeford:** That has been very important. Even with agreement between parties at the headline level, as the legislation made its way through the Assembly, there were differences in emphasis and different points of detail between parties that agreed on the headline. However, in taking the legislation through the Assembly, my point of view was that it was not the sort of legislation that one wished to take through on a partisan, "We've got more votes than you have", basis. I was keen that, by the time that we got to the final vote on the floor of the Assembly, we would have the broadest possible consensus. The Conservative Party did not have a commitment but its members were allowed a free vote in the final vote, and significant numbers of Conservative members supported the legislation in its final form. Inevitably, that meant quite a lot of crafting of compromises around some aspects of the legislation, but given its nature, I felt that that was more important than simply using the weight of Government numbers to move the legislation through the process.

**Jackson Carlaw:** In relation to opting out, you said that when someone has done nothing at the point of donation and there is deemed consent, the family will always be asked whether it has further information on the person's views. You also said that a representative could be appointed. Who will arbitrate and make the ultimate decision about whether the transplant will proceed?

**Mark Drakeford:** If a representative is appointed, that person has primacy. That person will represent the potential donor's views. Even if a family were to disagree entirely, it is clear in our law that if someone has appointed a representative, that person's view will prevail. There is always room for discussion and for different views to be contributed, but if an individual has taken the trouble to appoint a representative, that person's view will be the one that prevails in the end.

**Jackson Carlaw:** To whom does the representative express the donor's view? If it is the family, and the family is being asked for the additional views, by whom is the family being asked and who then makes the decision?

**Mark Drakeford:** Thank you. I am sorry that I did not get that point originally. The views are expressed to the clinical team, whose responsibility it is to explore the possibility of donation. In Wales, just as in Scotland, the clinical team is represented by the specialist nurse in organ donation. That is the person who deals with the issue all the time and who is particularly trained in eliciting views from families and explaining to them what the decision would involve. A discussion takes place with the clinical team, which allows the family to express its views. If a representative has been appointed, the team is responsible for obtaining their view as well.

**Jackson Carlaw:** That leads to where I wanted to end up. If someone wishes to opt out, what different opportunities are there for them to register that wish? Having been broadly sympathetic to this approach, my concern as health spokesperson is around my confidence in systems. Everyone remembers the dreadful scare in Liverpool, where it turned out that children's tissue had been kept and nobody had known anything about it.

There is such a wholly positive attitude underpinning the current system, and levels of registration are increasing. All this turns on the system that we put in place to record people's wishes being thoroughly robust. Were it to transpire after the event that an individual's wishes had not been respected, the media might exploit that as being something of a national scandal, which could have a prejudicial effect on the whole system. That is my concern.

How certain are you about the robustness of the system to ensure that individuals' views are respected? An individual could make a decision to opt out years in advance—I hope that it would be years in advance—of a situation arising where their views would have to be considered and they might never have thought to go back to check the current status of their wishes as recorded.

**Mark Drakeford:** Those are really important points. The issue of reputational damage to the system, were organ donation to go ahead in circumstances where the donor clearly did not wish it to happen—or vice versa—has preoccupied us during the process of the bill. I say to people who ask me in Wales that opting out will be absolutely as easy as opting in; it will not be made more difficult. We will make sure that anybody who wants to opt out can do it as easily as anybody who wants to opt in can do it. People will be able to opt out at general practitioner surgeries, by visiting the internet site and so on; it will be very straightforward.

The safeguard in our system comes through the role of the family. Donation cannot go ahead without the involvement of the family. As you suggested, someone might have opted in on the register many years previously but might subsequently have changed their mind and come to a different view. If the family knows and is able to tell the clinical team that, even though the individual is on the register as being in favour of organ donation, their views had changed and they would not wish to be a donor, the family's view would prevail. The safeguard comes through having the discussion at the point where a decision has to be made. We will not rely simply and solely on the register, even though we are confident that the register itself will be as friendly to users and accurate as it can be.

**Jackson Carlaw:** In essence, in order to secure public confidence, you have gone for little brother, rather than big brother—if I can put it that way—in terms of the way the system would be judged.

**Mark Drakeford:** We had a very lively debate about the role of the family. One of the amendments that the Government made to the bill during its passage was to make it clear on the face of the bill that the family had this right and this role to play. I hope that I have made this clear already, but I want to make it completely clear that what the family is asked to do is represent the known views of the donor, not its own views.

**Jackson Carlaw:** I understand that. One thought that has just occurred to me is: what happens when there is not a family?

09:30

**Mark Drakeford:** Where people have no family, if they have appointed a representative, the donation will go ahead, but if somebody dies and no family member or representative can be found, the donation will not go ahead. We have had debate about that, because somebody with no family members might have opted in and put their name on the register, but there are issues other than consent. For example, the clinical team will have to pursue with the family issues of medical history and whether the person is in a proper clinical condition to be a donor. From the clinical evidence, we know that those circumstances will be rare but, to protect the integrity of the system, our decision has been that if a person has no family and no representative, the donation will not proceed.

**Pat Vernon:** In a deemed consent system, such as the one that we will have, the family is required to confirm other details. It would not be right to deem a person's consent unless we can be sure that they were ordinarily resident in Wales—that is one of the conditions—and there will be other things to check, as the minister said. That is part of the reason why we say that families or long-standing friends should be present and able to provide or confirm those details.

**Angus MacDonald:** Clearly, the introduction of your opt-out system in Wales will result in two different registers operating within the UK. Ms Vernon has just touched on the issue of Welsh residence. What steps have been taken to address any potential problems that might arise from maintaining two registers?

**Mark Drakeford:** In fact, there will still be just one register for the whole of the United Kingdom, because we have now secured agreement between the four nations that that will be the case. There is to be a new register, which will allow the recording of opt-out decisions and appointed-representative decisions. The register will be new, but it will be a single common UK register. That agreement is now secured and the funding has been secured, too, to ensure that the register will be in place.

**David Torrance:** What measures are in place to engage with the public to raise awareness of the change and to allow people to make an informed decision?

**Mark Drakeford:** Thank you for that question. As I said, we have a two-year period of information and education. In essence, it will operate in two main ways. We have a mass campaign that is designed to ensure that the ordinary citizen who wishes to be informed about the new system will have that opportunity. We are exploring a range of ways in which we can ensure that that information gets to somebody who wants to be informed. That involves television and newspaper advertising, information in GP surgeries and using our primary care community to help us. A letter setting out the new system will go by post to every single citizen who is resident in Wales, as we lead into the system.

The second thing that we will do, which is allied to that, is to run some information campaigns that are targeted at groups of people for whom we think we have to do that bit extra to ensure that they are informed. I have mentioned faith groups, but we will do a similar job with young people as they become 16 or 17 and as they approach 18. In Wales, people will not be capable of having their consent deemed until they are 18, so we need to ensure that those young people understand the position that they will be in.

We will do a particular job of work with students, for example, who come and live in Wales to study. They will have to have been here for 12 months before they fall within the ambit of deemed consent. We will use the first year of their study in our universities in Wales to ensure that they get an extra level of information. It is therefore a dual campaign, in that there will be a mass campaign for the ordinary citizen and special action to ensure that we reach the groups that we think we have to make an extra effort to reach.

**David Torrance:** One of the groups that I am interested in are those who have difficulty with reading and writing. How will you engage with those people?

**Mark Drakeford:** That is an interesting point. We had lots of discussion during the passage of the bill on the issue of capacity and how we ensure that nobody is within the deemed consent regime who does not have the mental capacity to understand the choices that they have. The 2013 act has various mechanisms to respond to that.

We will make particular efforts to reach people who have communication issues, not just in reading and writing. Our general campaign is pitched at a level at which you would expect most people to be able to understand it. However, we have people who are deaf or who have problems because they are hard of hearing. We are lucky in Wales in having a very vibrant third sector, particularly around health. We will work with our third sector partners to ensure that they do that extra bit of activity to reach those people who may find it more difficult to get from normal channels the information that they need. That will include people in the circumstances that you described.

**Chic Brodie:** Some may regret our celebrity-driven society, but in your mass campaign, which seems to be extremely thorough, do you use well-known Welsh celebrities to raise the profile of the campaign and get the message over?

**Mark Drakeford:** We do. The Welsh Kidney Patients Association has long been a leading advocate for the change in the law in Wales and it has always used prominent figures in Welsh public life to persuade people of the need for donation. For example, Leigh Halfpenny, who I guess you will have heard of, is one of the people who are most prominently associated with promoting organ donation in Wales. The Welsh Rugby Union has been a powerful partner in all this, but we also use other celebrities—for example, Katherine Jenkins has been an active participant in the Kidney Wales Foundation campaign. So, we use people who will be better known than me—that is for sure—in the public mind to get the message over.

**Chic Brodie:** That is interesting. Thank you.

**Pat Vernon:** One thing that we have found extremely powerful is the use of real-life case studies, so we have a very good bank of case studies that we have built up. The people from those studies are very happy to talk to the media about their own experiences and so on. Using well-known celebrities and people who have real experience of the area can be a powerful combination.

**Anne McTaggart:** Good morning, minister and Ms Vernon. I have been left to ask about the financial aspects of the 2013 act and specifically to explore with you what the costs of implementing the new system are estimated to be and how that will be monitored.

**Mark Drakeford:** There is a cost involved with the introduction of the new system. We have set aside £7.5 million in Welsh Government budgets over the coming years to support a range of activities. That will include the education and information campaigns that we have been exploring and a new set of training packages for specialist nurses and other clinicians to ensure that they are fully conversant with the new system.

We think that one extra donation a month, which is more or less what we expect the new system to bring about, will not have a major impact on the critical care capacity of the Welsh national health service, but we have a new critical care plan for Wales that sits alongside the 2013 act. I recognise that some of the £7.5 million will be needed to improve our critical care capacity to be able to respond to the new level of donation.

Once the system is up and running, all the evidence that we have shows that if we are able to secure just two more donations in Wales, the system will pay for itself, because the cost of kidney dialysis is very significant. If we can bring just two more people off dialysis and through transplantation into what is a far better quality of life for them, the extra cost of running the system will be paid back. Although investment is required up front to bring it all about, once it is happening the system will pay for itself and probably do more than that.

**Anne McTaggart:** Given that there are costs up front, will the system have implications for any other initiatives before you feel the benefit at the other end?

**Mark Drakeford:** In the circumstances that we are all in, any spending decision is inevitably also a decision not to spend money on something else. If your question is whether we have to make choices to give this priority over something else, inevitably the answer is yes, because of the financial circumstances. However, it is our belief that the investment is worth while, because in the longer run it will not only pay for itself but will lead to such an improvement in the quality of the lives of the people who will be affected by it.

Rightly, today's discussion reflects the discussion that was had in the Assembly during the passage of the legislation, when we focused very much on the person who was making the donation and on ensuring that the act would fully protect their position and provide the necessary safeguards to ensure that people within a deemed consent regime understand the decision that they are making. Nevertheless, I tried regularly to remind members of the Assembly that there is another very significant audience: the people who are waiting for donations.

More than 200 people are on the organ donor waiting list in Wales. I visited a kidney dialysis unit in Cardiff in the immediate run-up to the final debates on the floor of the Assembly. It is very powerful testimony when someone who is sitting next to you says, "I've been on the waiting list for three years. Every day I wake up and think to myself, 'That's one day less in which this miracle could be performed for me.'"

Part of the act of persuasion that we had to carry out with some Assembly members and with faith groups and so on was to ensure that people who had benefited from donation or who were waiting for donation came to the Assembly to tell their stories.

**John Wilson:** I wish the minister and Ms Vernon a good morning.

I want to tease out further the answers you gave to Jackson Carlaw. The role of the family is crucial in relation to either opt-in or deemed consent. You mentioned a scenario in which someone passes on some time after they have opted in, the family says that the person's wishes had changed and they no longer wanted to opt in, and they are insistent that the individual no longer wanted their organs to be used. You also mentioned an appointed representative. Where would their views stand in relation to the family's views and the wishes of the individual—who in many cases will be deceased—in such circumstances?

09:45

**Mark Drakeford:** If someone has appointed a representative, and the representative's account of that person's views differs from the family's account, the representative's views will prevail. That is absolutely clear in our legislation. If someone has taken the trouble to appoint a representative, it is their view that will determine the outcome, even when that view is different to the family's view.

Let me go back to the first set of questions. If someone is fearful that their family might not faithfully represent their views or might have a different set of views to their own, and they want to make certain that their views will matter at the point at which the decision is made, a representative will be appointed. It is important that, in those circumstances, the contribution from the representative—the person whom someone has gone out of their way to appoint to represent their views—will prevail.

**John Wilson:** Will there be a register of appointed representatives from which individuals will be able to choose? One issue is that someone may opt in and appoint a representative, and the eventual donation takes place five, 10 or 20 years down the road. How do we weigh the individual's decision 20 years ago against the circumstances of the time at which the donation is made?

**Mark Drakeford:** That is an important point to think through.

As the bill made its way through the Assembly, I—and most people, I think—reached the conclusion that we cannot legislate for every contingency. Certain circumstances may well arise in the future. If someone appoints a representative, that person's name is recorded on the register, which is how we know who the person is. However, many years might elapse and, although the person might have known that representative very well 20 years earlier, things might have moved on.

That is why, in the end, in such unusual and probably complex circumstances, the clinical team will still have to exercise their judgment. Just because something is legal does not mean that it has to happen. If the clinical team felt that there was such an ambiguity around someone's wishes to be a donor, they would take into account—as one of your colleagues mentioned earlier—that they would not want to act in a way that would cause a reputational risk to the system as a whole.

There will always be discretion available to the clinical team to make a decision in such circumstances, and to say, "Given what we know and the length of time that has elapsed and so on, we are not confident that the donation should go ahead."

**Pat Vernon:** As the minister says, the specialist nurse and other members of the clinical team will have the specialist skills to work their way around potential conflicts and disagreements, using the information that they have. Just because something is lawful, it is not necessarily inevitable, and the donation may not go ahead for a number of different reasons, but it is part of the team's skill to work that out. It will also be covered to an extent in the code of practice that will be developed to underpin the legislation.

**John Wilson:** Thank you for that clarification, Ms Vernon. However, although someone who opts in can appoint a representative, that representative may predecease them or cease to be their friend or associate. The issue is whether the clinical team supersedes the wishes of the family in circumstances in which the appointed representative is no longer available to engage in the discussion.

**Mark Drakeford:** The clinical team must have the discretion to make a decision in those circumstances. There are a series of contingencies; as I said, we cannot in law anticipate every possible set of circumstances, which is why we make it clear in our legislation that, as Pat said, just because something is lawful it is not inevitable. The clinical team will always have a residual discretion to deal with unusual sets of circumstances.

**John Wilson:** Thank you, minister.

My final question relates to a campaign in the 1980s—I am not sure whether the minister is aware of it. When donors were sought at that time, cards were issued. The campaign centred on ensuring that donated organs stayed in the NHS and were not used in the private sector; my organ donor card from the 1980s said “NHS only.”

Minister, can you indicate whether, when you put through the legislation in Wales, there were discussions about ensuring that those who opt in could specify that only the NHS would benefit from their organs and that their organs would not be transferred to patients receiving private treatment? You referred to kidney transplants, but body parts are now used in a number of areas of medical development. Can you clarify whether there is an opt-in clause that allows individuals to state that they want their organs to be used only by the NHS?

**Mark Drakeford:** The system in the future will be the same as the system now in that regard, Mr Wilson.

As you know, if you opt in now you are able to make a series of subsidiary choices. As you say, a wide range of organs can be donated and, even if someone opts in, they do not have to commit to making all their organs available. For example, many people choose not to allow their eyes to be used, when they are quite happy for every other organ to be used.

The ability to restrict the use of your organs to the NHS will be available in the future as it is available now. The debate in Wales was more about making it clear that additional organs that may become available to the Welsh NHS will be available to the NHS system in any part of the UK.

**The Convener:** I would like us to continue, but I am conscious that we are running out of time. I have a final, quick point. In the legislation or in the debate in the Welsh Assembly, did you make any reference to the role of a living will, in which someone could identify that they wish to donate their organs and name a representative? Was that discussed at all?

**Mark Drakeford:** I do not recall that being raised directly, although Pat will check whether there is anything specific that I have forgotten. Our debate centred more on making sure that the ability to appoint a representative is as straightforward as possible and advertised as widely as possible in the organ donation system itself.

**Pat Vernon:** The legislation provides for a person to make arrangements orally or in writing—for example, to appoint a representative—but it does not specify how that should be done. I would imagine that you could include a living will in those sorts of arrangements.

At the end of the day, organ donation will come down to whether or not the information is accessible at the time that it is needed, so we would not encourage people to put their wishes somewhere where nobody would know about them if the time ever came when they were in a position to donate their organs.

That is why our communications campaign encourages people to talk about their organ donation decisions. Similarly, the Scottish Government has its “wee chat” campaign. That is the sort of thing we want. We do not want decisions to be hidden away in inaccessible places.

**The Convener:** You said that you have had 15 additional organ donations.

**Mark Drakeford:** That is what we expect, convener. In the regulatory impact assessment that we had to produce as part of the bill, we had to state the number of extra donations that we expect to come about in Wales as a result of moving to deemed consent.

Ordinary citizens are surprised when they learn just how few donations are made. When I ask people to guess the number of donations that were made in Wales last year, they overestimate the number by many times, and when I tell them that there were only 63 donations and that we are hoping for 15 more, the fact that we are actually talking about such a modest number takes their breath away.

**The Convener:** I realise that not much time has passed since the legislation went through, but how many additional donations have there been since then?

**Mark Drakeford:** The legislation does not go live until 1 December 2015 to allow for the period of education and so on. We are aware that simply raising the profile of the issue and getting it discussed in the media and by people are already having an impact on people’s decision making but, as you suggest, it is really too early to give you such figures.

**The Convener:** So, although the legislation is not yet in force, the awareness raising will potentially help with donations up to 2015.

**Mark Drakeford:** Yes.

**The Convener:** If you can stay with us for a couple of minutes, we will now have our summation and decide our next steps on the petition. I am sure that I speak for the committee when I say that your evidence was excellent and I thank you for giving up your time to present it to us.

The petition is clearly very important, and we need to be active in our next steps. Indeed, I think that the petition itself merits a specific debate in Parliament—or what we call a plenary session—but we will have to make a bid through the Conveners Group for time for that. We have done that two or three times over the past few years but, as ever, it is a decision for the whole committee. Do members share my view that we should at least ask for a plenary session to debate this issue in future?

**Members** *indicated agreement.*

**The Convener:** We will therefore make arrangements to put in a bid.

Do members have any suggestions for any further steps that might be necessary but which we have not yet mentioned?

**Chic Brodie:** I thank the minister and Ms Vernon for their extremely interesting and informative evidence. I do not know what communication they are having with the Scottish Government on this matter, but we will certainly be interested in seeing the evaluation once the legislation goes live. We should certainly continue to raise the profile of this issue, and I agree with the suggestion that we seek a plenary session to discuss the petition.

**The Convener:** Thank you for that. Do members have any other comments?

**Angus MacDonald:** As the minister has made clear, the soft opt-out system will not be introduced in Wales until December 2015, which I presume means that the situation in Wales will not be evaluated until late 2016 or even 2017.

Given the minister’s comment that two more donations in Wales would cover the extra costs of running the system and that an extra 15 donations are expected, which suggests that the system will pay for itself, it might be time to encourage the Scottish Government to move faster on the issue. A plenary session might well help in that respect.

**The Convener:** Thank you, Mr MacDonald.

As members have no further comments, I thank the minister and Ms Vernon for giving up their valuable time to give evidence in what has been an excellent session that has helped us to understand the issue. There are so many good ideas from your legislation that we need to incorporate in Scotland, and we will certainly keep you up to date with developments up here.

I will suspend for two minutes to bring the videoconference to an end and to allow our next witnesses to take their places. Thank you very much.

**Mark Drakeford:** Thank you, too.

**Chic Brodie:** And good luck at the weekend. [*Laughter*.]

**Mark Drakeford:** Thank you for that.

10:00

*Meeting suspended.*

10:03

*On resuming—*

## New Petition

### Supreme Court (Civil Appeals) (PE1504)

**The Convener:** The next item of business is consideration of one new petition, PE1504, by Kathie Mclean-Toremar, on party litigant civil appeals to the Supreme Court. As previously agreed by the committee, we will take evidence from the petitioner. Members have a note by the clerk, the Scottish Parliament information centre briefing and the petition.

I welcome the petitioner and Gordon Mclean to the meeting. I invite Ms Mclean-Toremar to make a short presentation of approximately five minutes to set the context for the petition, after which I will start with some questions and then my colleagues will ask additional questions.

**Kathie Mclean-Toremar:** Good morning, ladies and gentlemen. I hope that you understand that the petition is about not just me but a gross imbalance in the law regarding all persons in Scotland who find themselves being a party litigant—that is, someone who has to represent themselves in court. We are lucky enough to live in a democratic society in which that is possible.

As I said in my petition, in "A guide to bringing a case to The Supreme Court", paragraph 1.8, which is headed "Appeals from the Court of Session in Scotland", states that, although

> "permission to appeal is not required from an interlocutor of the Inner House of the Court of Session",

the appeal

> "must be signed by two Scottish counsel".

That is where the flaw is.

As we all know, a party litigant is a person who, for whatever reason, such as a lack of funds for a solicitor, represents themselves. Nowadays, people are more likely to represent themselves because of a lack of funding for solicitors from the Scottish Legal Aid Board. I myself have seen solicitors demonstrating about the issue. We will have a situation in which more and more people will be forced to represent themselves in court.

When a party litigant represents themselves in the Court of Session, loses their case, then appeals and loses that appeal—I learned through a freedom of information request that there are no statistics on how many party litigants have won their case in the Court of Session—they are also then denied the right to appeal to the Supreme Court, which, according to the European Court of Human Rights, is deemed to be the highest court in the United Kingdom. On the Court's website, which is www.echr.coe.int, frequently asked question 26 states that an individual must have taken their case to the highest court in the land before they can put it to the European Court of Human Rights.

The fact is that people are being denied their human rights; in this case, the relevant article is article 6, on equality of arms. Everyone deserves a fair hearing. We should be on a level playing field, not divided between the have and have-nots in society. Party litigants lose their right to appeal because of paragraph 1.8, which states that two Scottish counsel must sign the appeal, while the experience of all party litigants is that they cannot approach Scottish counsel in their chambers or in the Court of Session, and certainly not at the advocates library. The only way to approach counsel is through a solicitor, which is where the even larger difficulty lies.

The solicitor has only 42 days to read a case that might have been going on for many years. They then need to speak to two counsel and have them read the case, print their opinion and apply for an appeal to the Supreme Court. Although in theory that process can happen, in practice it cannot and does not happen. Legal aid has to be applied for, which takes time. If legal aid is granted, the solicitor can then contact counsel—I said "if" it is granted; the committee should please take into consideration the cuts to legal aid.

The real problem is that solicitors are wary of taking on a case at such a late stage. As part of my research, I obtained a list of 38 solicitors via Law Society of Scotland recommendations. Having telephoned all 38 with the scenario I have just described, I found that not one of them was willing to take on such a Herculean task. The reasons cited by many of them included conflict of interests, lack of funding, too many hurdles, and, last but not least, the fact that the pursuer in the appeal has been a party litigant, in relation to which the legalities are a minefield that a solicitor would be reluctant to enter. It is not the solicitors' fault; it is the fault of paragraph 1.8, which denies party litigants their rights.

In paragraph 6 of its response to the consultation on the Courts Reform (Scotland) Bill, the Faculty of Advocates states that it knows that party litigants have difficulty with obtaining signatures from counsel. It goes on to say:

> "It has also become increasingly burdensome. The number of such cases has been increasing: between 2005 and 2010 the Faculty received five such requests from party litigants".

That is five requests in five years. "Burdensome" is defined as heavy, onerous, troublesome and hard to deal with, so we can deduce that the faculty does not think highly of party litigants.

I am still waiting for a response from the Faculty of Advocates to my freedom of information request about how many party litigants it has helped to appeal to the Supreme Court, but I have also contacted the Supreme Court and I already know the answer. Not one party litigant from Scotland has ever been granted the right to appeal to the Supreme Court, so they cannot fulfil the criteria for making an appeal to the European Court of Human Rights.

Paragraph 1.8 denies a party litigant the right to appeal to the Supreme Court and to appeal to the European Court of Human Rights. That is a blatant human rights issue. The theory is there but, as I say, the practicalities deny a party litigant the right of appeal. Everyone must be treated equally, with fairness and respect. The current situation contradicts the Human Rights Act 1998 severely. This is a flaw in Scottish justice. The system that is in place is not fit for purpose. It places insurmountable barriers in the way of the party litigant. That happens in any civil case, and civil appeals show that party litigants have fewer rights. The Scottish Government has clearly recognised that there is a problem. Mr MacAskill mentions the issue in the Courts Reform (Scotland) Bill, but nowhere do the two words “party litigant” appear in the bill.

I believe that my petition could serve to support any further planned measures to bring relief in such cases, so I feel that it is in the interests of justice and of all party litigants for the committee to consider it.

**The Convener:** Thank you very much.

If Mr Mclean would like to respond to any of the questions that we ask, I encourage him to catch my eye.

You have probably dealt with my first question, but I will ask it anyway, just for the record. You mentioned the two-counsel rule, which seems to be crucial. Are you arguing that article 6 of the European convention on human rights, which is on the right to a fair hearing, is being breached?

**Kathie Mclean-Toremar:** I am saying that a party litigant does not have the right to approach counsel. That is a breach of equality of arms, for which article 6 provides, so people’s human rights are being breached. A party litigant cannot approach counsel directly—they must go through a solicitor.

**The Convener:** My second question is about future legislation. You mentioned the Government’s Courts Reform (Scotland) Bill, which will be considered by the Justice Committee, and you hinted at what it could do. My understanding is that that bill will take away the two-counsel rule and that it will be for the inner house to decide whether there are sufficient grounds for someone to go to the Supreme Court. What is your view of that assessment? If the bill went through, would it solve your problem?

**Kathie Mclean-Toremar:** No, it would not. The bill, which I believe was introduced on 6 February, does not mention party litigants, and I think that that is a gross problem. The phrase “party litigant” does not appear in the bill. Will the bill provide a big umbrella, under which everyone will fit, or will it provide for people who are legally represented? That is where the problem lies. If someone is not legally represented, how will they be able to go to the inner house, which is what it is proposed will happen?

**The Convener:** So you are arguing that the bill would not solve your problem.

**Kathie Mclean-Toremar:** It would not cover party litigants.

**The Convener:** Okay—thank you for that.

**Chic Brodie:** I will begin with a general point, which does not relate only to the Public Petitions Committee. I am very concerned about how hard it is to get information out of the legal system in Scotland. Given that a number of approaches have been made and that hardly any replies have been received, I wonder what on earth is going on and how our legal system is being administered. People should at least have the decency to provide a reply, whether we are talking about the Lord President, the cabinet secretary or whoever. I leave that point lying.

What is your view of the proposed change, whereby someone would be able to approach the Faculty of Advocates, rather than having to have two solicitors approve their appeal to the inner house?

**Kathie Mclean-Toremar:** At the moment, a party litigant has to get two signatures from Scottish counsel. That is where the problem lies. It is not possible to approach counsel, to go to the Court of Session to speak to counsel or to phone up counsel. They will have nothing whatever to do with you. It is necessary to go to a solicitor, who will go on your behalf to counsel.

**Chic Brodie:** I am sorry to interrupt, but in the petition you say:

> “only a solicitor practising in Edinburgh can contact a counsel.”

**Kathie Mclean-Toremar:** Yes, that is another problem.

**Chic Brodie:** Where is the evidence for that?

**Kathie Mclean-Toremar:** I believe that a solicitor from Glasgow submitted a petition a few months ago on the problem whereby a Glasgow solicitor has to instruct an Edinburgh solicitor in order to be able to go to the Court of Session. That is my understanding—that is the way in which the situation was explained to me. I went to a Glasgow solicitor who told me that. A solicitor cannot do that unless they have what I think is called the right of audience.

**Chic Brodie:** If that is the case, I find it most disconcerting.

I have one last question. I know that we cannot go into the detail of your case, but do you agree that there has to be some filtering out of the number of cases in which the inner house might be approached, other than through the two-solicitor rule? Have you any idea how that process might be performed?

10:15

**Kathie Mclean-Toremar:** We do not know how long it will take for the Courts Reform (Scotland) Bill to go through. It could be changed so that a party litigant who had gone through the Court of Session, appealed and lost their appeal would have the right to go directly to counsel.

It might be argued that there is already a free legal services unit. You can go to various agencies and ask them to make an application to the FLSU, which is run by certain advocates on a pro bono basis, but the unit can give people only three days. Many cases have taken years to go through the Court of Session, so three days is not enough. It takes more than three days to read the case and do research. The FLSU does not cover a party litigant in that regard.

**Angus MacDonald:** I appreciate your bringing these anomalies to the Parliament’s attention. It seems unfair that party litigants can approach counsel only through a solicitor, which defeats the purpose of the individual having the right to represent themselves.

I agree with you that the 42-day period for filing a notice of appeal seems excessively short. You did not really touch on that in your preamble. It has been noted that the Courts Reform (Scotland) Bill seeks to introduce a provision that requires litigants to seek leave to appeal, rather than there being a requirement for two counsel to certify appeals. I understand that, in the bill, there is no intention to increase the 42-day period for filing a notice of appeal, although I could be wrong. Clearly you would wish that period to be increased.

**Kathie Mclean-Toremar:** Yes, if possible.

**The Convener:** As you probably know, we get a briefing from our information service—SPICe—on every single petition that is lodged. Our briefing states:

> “the Faculty of Advocates suggests that party litigants can approach the Faculty directly for assistance in this regard.”

Do you have any comments on that?

**Kathie Mclean-Toremar:** I have tried—and I know of three other party litigants who have tried—to address the Faculty of Advocates. The faculty does not reply.

I sent a freedom of information request on the matter eight weeks ago, but I have not had a reply. As it says in its response to the Government consultation, the Faculty of Advocates finds party litigants “burdensome”. That is shocking. That means that we are not on a level playing field where everyone has the right to represent themselves. The system does not work.

**The Convener:** Is it reasonable to say that there is an outstanding issue around the Faculty of Advocates? We have picked up that it is offering to provide help and advice, but you are saying that you have found it difficult to get a response.

**Kathie Mclean-Toremar:** It does not respond. That is where the free legal services unit comes in, which the Faculty of Advocates runs on a pro bono basis. The problem is that you have to find an agency, which could be Strathclyde law clinic or a citizens advice bureau, to make the application to the free legal services unit at the advocates library, and somebody will read it and say yes or no. However, as you can have only three days from the unit, and they take perhaps one day to read it and one day to do a bit of research, when will they stand in court and do the proof? There is no time. I hate to say this, but I feel that the Faculty of Advocates is just doing some window dressing and not addressing the problem. It does not respond to freedom of information requests. I made an FOI request to the Supreme Court in London, which told me that not one party litigant from Scotland has ever been able to appeal. Why?

**The Convener:** I am not putting words in the mouth of our information service, but the general comments that we get through it are that the two advocates or counsel that you refer to will not sign an appeal unless they feel that there is a valid issue in law for the case to go to the next stage. That is the general legal position. Do you accept that that summarises where we are in the law?

**Kathie Mclean-Toremar:** Yes. The average length of case for the majority of party litigants is 11 years. I think that they have a point in law; otherwise, they would not have kept going for more than 11 years and their cases would have been thrown out of court. It is up to the party litigant to put forward the points of law to the advocate, which is not done lightly. However, they are not paying for the advocate or counsel, and I think that money really speaks.

**The Convener:** Mr McLean, do you have anything to add at this point?

**Gordon Mclean:** No.

**Kathie Mclean-Toremar:** Might I add something?

**The Convener:** Sure.

**Kathie Mclean-Toremar:** I approached Lord Gill, but he simply sent a letter from his secretary telling me to go www.supremecourt.com. I did not ask for legal advice and I did not ask any unusual questions. I just asked about paragraph 1.8, but he would not answer me. Everybody whom I have asked in the legal system has told me to go to paragraph 1.8.

**The Convener:** Thank you for that. We have come to the end of questions, but we want you to stay while we look at how to deal with your petition.

You have raised a lot of very interesting points and shown that there is real frustration among party litigants, particularly about getting to the Supreme Court and using ECHR. Normally, the committee wants to go as far as we can with each petition. There are some exceptions, however, such as where another committee is looking at legislation that is relevant to the petition. As you will know, the Justice Committee is looking at the Courts Reform (Scotland) Bill. It would therefore make a lot of sense for us to refer the petition to that committee so that it can consider whether the bill could help you.

My advice to the committee is that we refer the petition as soon as possible to the Justice Committee so that, as part of its consideration of the bill, it can look at the issues raised by the petitioner. I think that the petition raises quite a lot of questions, and I would be pleased if our colleagues in the Justice Committee could have a look at it. However, that is a matter for committee members to decide. What are members' views?

**Chic Brodie:** I agree with your view. However, sometimes we forget why we are here, which is to respond to people who have genuine issues. I fail to understand why the powers that be are not responding, at least with some degree of courtesy, to the petitioner. Personally, I find it wholly unacceptable that information is not being provided—there is not even the courtesy of a letter. I hope that the message that we send from here, whether formally or not, is that we are here to represent petitioners, whether they are right or wrong, and that they should be treated with courtesy, no matter what part of Government is involved. Frankly, in my opinion, some of the answers—indeed, the lack of answers—that have been received in this case are wholly unacceptable.

**The Convener:** Mr Brodie makes an excellent point.

Do members agree with the recommendation that we refer the petition to the Justice Committee?

**Members** *indicated agreement.*

**The Convener:** As the petitioners will have heard, we are keen to ensure that the committee focusing on the bill also focuses on your petition. We will therefore arrange for it to be transferred immediately to the Justice Committee, which will keep you up to date with progress. The petition is still active in the Scottish Parliament; it is simply being referred to the appropriate committee that is considering the legislation.

**Kathie Mclean-Toremar:** When I went to my local MSP, Michael Russell, he informed me that he had spoken to Kenny MacAskill, who said that the law will be changed when Scotland gets independence.

**The Convener:** Right.

**Kathie Mclean-Toremar:** I just wanted to put that on the record.

**The Convener:** I have to say that that is slightly beyond my pay grade. Mr Russell is entitled to his comments but, as far as what the Public Petitions Committee can do—

**Jackson Carlaw:** I am sorry, convener, but I must ask the witness whether that comment was communicated to her in writing.

**Kathie Mclean-Toremar:** Well, my husband was there—

**Jackson Carlaw:** But do you have written confirmation of it?

**Kathie Mclean-Toremar:** No.

**Jackson Carlaw:** It would be very interesting if you were able to obtain that commitment in writing and shared it with the committee.

**The Convener:** As I have said, the petition is still active and will be referred to our colleagues on the Justice Committee, who will consider it alongside the bill.

I thank the petitioners for coming along and raising a number of very worrying points. I hope that the Justice Committee will be able to look at the matter in more detail.

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

**Gordon Mclean:** Thank you.

**Kathie Mclean-Toremar:** Thank you very much for listening to us.

10:26

*Meeting suspended.*

10:26

*On resuming—*

# Current Petitions

## Youth Football (PE1319)

**The Convener:** We will now consider a number of current petitions. The first is PE1319, by William Smith and Scott Robertson, on improving youth football in Scotland. Members have a note from the clerk and various submissions, and I should also tell the committee that although Iain Gray—who has been very interested in this petition—cannot be with us this morning, he has expressed his support for it. I also declare an interest as a trustee of Inverness Caledonian Thistle Football Club.

In the past, members have expressed a very strong interest in this petition, which raises issues that go beyond a simple interest in football. It is also about the employment of young people, fair treatment directives and, indeed, the rights of the child, which I know Scotland's Commissioner for Children and Young People has looked at.

The petition has been discussed in round-table session in the past. Before I throw the matter open to discussion, I should say that my own view is that it would make a lot of sense to have another round-table discussion on the issue of training compensation for young players. Members have a list of people who could be included in that evidence session, but I simply want to flag up my particular view on the matter.

Do members have any comments?

**Chic Brodie:** Although it is interesting to see what action has been taken, I do not believe that the action itself addresses all the points raised in the petition. Training arrangements have been mentioned but the petition covers a much wider set of issues including contracts with children under 16; certain social, educational and psychological effects; the effect of compensation payments between member clubs; and increasing the educational target. The petitioner raised about six issues and although we welcome the fact that the Scottish Football Association and the Scottish Professional Football League have addressed the training compensation issue, I do not feel that it is a comprehensive response to the issues raised in the petition.

I therefore support the suggestion of a round-table evidence session and the recommendation that we seek representatives from clubs other than the two large Glasgow clubs to give us an understanding of the activity happening nearer the ground and how the issue is perceived by lesser clubs that are not necessarily in the premier division. After all, that is where the impact will be felt.

**The Convener:** Thank you for that. Did you have anything to add, Mr Wilson?

10:30

**John Wilson:** Not really, convener, except to say that it would be interesting to have another round-table discussion.

It would be useful to get an update from the SFA and the SPFL on the changes that have taken place since we first considered the petition and on where those bodies are going, particularly with regard to the working group that was set up to examine the issue.

As the convener said, the petition has continued for a number of years and has gained cross-party support for getting to the bottom of the issue and resolving the situation in which young teenagers are denied the opportunity to play football for a club that is not the original club with which they signed up.

A round-table discussion would give us an opportunity to find out whether there is significant movement within professional football to ensure that we allow young people to play football without being in effect debarred or prohibited from doing so because of the financial constraints that some clubs are placing on other clubs to allow those young people to play.

**The Convener:** That is a good point. In fairness, I am not suggesting that there has been no action; I know that Campbell Ogilvie, who is the SFA president, has formed a working party and has a great interest in the area. Nevertheless, there are outstanding issues, and a round-table discussion would be useful.

**David Torrance:** I am happy to go along with the plan for a round-table discussion, but I declare an interest as a member of the Raith Supporters Trust.

**Anne McTaggart:** I agree to a round-table discussion, from which we would benefit.

**Angus MacDonald:** I agree that a round-table discussion is a good idea. However, I note the suggestion in the submission from the Real Grassroots that Neil Doncaster, the chief executive officer of the Scottish Professional Football League, should be included in the round-table event. I do not see his name on the suggested list of attendees.

**The Convener:** Yes, it would make sense to include that key player.

Does Jackson Carlaw wish to say anything?

**Jackson Carlaw:** I have nothing to contribute, convener.

**The Convener:** Are members agreed that we will convene a round-table discussion and include Neil Doncaster as has been recommended? Do members agree that the clerk can go away and arrange that?

**Members** *indicated agreement.*

**The Convener:** I thank William Smith and Scott Robertson for their interest in the subject. They have raised some interesting points, and I hope that a round-table discussion will resolve some of the outstanding issues.

## Bond of Caution (PE1412)

**The Convener:** The next current petition is PE1412, by Bill McDowell, on bonds of caution. Members have a note by the clerk and the submissions. As members will know, the Scottish Government states in summary that it will not prioritise the work and is seeking to consult on this area, so there are issues with the timescale.

One suggestion is that we defer consideration of the petition until the end of the year so that we know the results of the Scottish Government's consultation. We do not have any control over the timescale because of the way in which the Scottish Government has prioritised the issue—or rather, the lack of priority that it has given it—so the end of the year is our best guess as to when the consultation will be completed. That is the reason for the rather lengthy deferral that we are suggesting. Do members have any views?

**John Wilson:** I am minded to close the petition under rule 50.7, if that is the correct rule. The Scottish Government has said that it will consider the issue only if it has time. Closing the petition would offer the petitioner the opportunity to come back with a fresh petition at a later date, as opposed to our simply deferring reconsideration of the current petition for 10 months when the Scottish Government's programme might not be any further forward.

It would be more useful to close the petition, with a view to allowing the petitioners to submit a fresh petition once the Scottish Government has set out its legislative programme, which might incorporate the petitioner's wishes. That would be more appropriate.

**The Convener:** Do members have any views on John Wilson's suggestion?

**Jackson Carlaw:** I understand why John Wilson says that, but I am not altogether satisfied with the Government's response or its justification for the lack of action. I note that we are advised that the Scottish Law Commission undertook a detailed review of the matter and that there was an overwhelming response in support of the move that the petitioner has articulated. Although the petition has come to us under the aegis of the petitioner, clearly he is articulating a view that enjoys much wider support.

I am curious about the Government's response. It kind of sets out the situation, but it is not terribly clear to me why the Government takes the view that it does not want to do anything about it, other than because it needs to have time. I find that a curious response. I am minded to support the original proposition, rather than let the thing drift off.

**The Convener:** As members know, the issue would require primary legislation, so there are issues of parliamentary time and willingness.

**Jackson Carlaw:** Well, there is no shortage of that.

**The Convener:** Thank you, Mr Carlaw.

John Wilson's view is that we should close the petition, for the reasons that he laid out, and Jackson Carlaw's view is to defer it and look at it again at the end of the year. Can I have other members' views?

**Angus MacDonald:** There is a strong argument for closing the petition for the time being. As John Wilson stated, the petitioner has the opportunity to come back at a later date, once things have moved on.

**Anne McTaggart:** If the Scottish Government brought forward consideration of the issue, for whatever reason, would the petitioner be alerted to that?

**The Convener:** Do you mean if the Scottish Government decided over the next few months to legislate?

**Anne McTaggart:** My concern is whether if we close the petition and the Scottish Government brings the issue forward for whatever reason, the petitioner will be alerted.

**The Convener:** If we decided to close the petition, we could write to the Scottish Government to ask it to ensure that the petitioner is kept up to date with any developments from the Scottish Government.

**Jackson Carlaw:** I note that the committee closed a previous petition on the basis that it would allow the Scottish Law Commission to undertake a consultation. It has undertaken its consultation, which supports what the petitioner is asking for. A fresh petition has come to the committee and we are proposing to close that too, with no progress having been made, despite the fact that the commitment of the previous petition was fulfilled and the Law Commission consultation seemed to support its conclusion. I cannot understand why we are being so unhelpful and wishing to bury the issue.

**David Torrance:** I am quite happy to defer.

**The Convener:** We do not normally put decisions to votes, but on my quick arithmetic it looks like—

**John Wilson:** It is my understanding that the majority wants to keep the petition open, and I am happy to defer to that majority. However, rather than deferring the petition for another 10 months, we should seek assurances from the Scottish Government on any timetable that it might propose to review the SLC report, as Jackson Carlaw indicated. It is difficult to keep petitions open when we know that there is no likelihood of an early resolution to them. Unless we get some commitment from the Scottish Government to bring the issue into the legislative programme in the near future—or an answer to the contrary—we should reconsider the petition as early as possible.

**The Convener:** We should defer the petition and write again to the Scottish Government—I know that we have written to it recently—to say that the committee is deferring the petition because we are keen for the Government to make some active decisions on it, and to ask it please to let us know what it will do on consultation and in any future legislation. That way, we would have something in focus and we could come back to look at the petition after a further period. Would that satisfy the committee?

**Members** *indicated agreement.*

**The Convener:** We agree to defer, although we will write to chase up the Scottish Government.

## Respite Services (Young Disabled Adults) (PE1499)

**The Convener:** PE1499, by Robert Watson on behalf of the What About Us? campaign group, concerns the creation of suitable respite services for younger disabled adults with life-limiting conditions. Members have a note by the clerk and submissions.

Again, I flag up the fact that a few organisations have not responded. Chic Brodie talked about that in relation to another petition.

**Chic Brodie:** I am sorry, convener, but I am on a roll on the subject of how some people are treating this committee—there will be more of it later. We should ask the four councils that did not reply why they did not reply. However, even more offensive than the fact that some people have not replied is the fact that the letters from the Convention of Scottish Local Authorities and Midlothian Council are virtually the same. Some people might say that we should expect that, but I certainly do not, and I wonder how much effort has gone into considering the contributions on this subject.

I understand that, in the current financial situation, certain things must be squeezed, but why have councils not spoken to people in the third sector, for example, and to social enterprise organisations that might pick up work that needs to be done? It will be interesting to see whether such services are picked up in the Procurement Reform (Scotland) Bill. I am disappointed that there is absolutely no mention of how the services could be delivered by others.

In addition, it is surprising that we are told that there is nowhere to house any of these activities when we know that there are wheens of buildings and fixed assets in the possession of local authorities.

**The Convener:** I should have added that the Health and Sport Committee is having an evidence-taking session on transition services. That might aid our understanding of the issue.

**Jackson Carlaw:** If the Health and Sport Committee is having a round-table discussion and taking evidence on the issue, why should we not refer the petition to that committee? Is the issue that it deals with too specialised to be dealt with in that context?

**The Convener:** If you are comfortable with making that recommendation, Mr Carlaw, I would certainly support it.

**Jackson Carlaw:** Well, that is what I suggest. There is an early opportunity for the petition to be incorporated into that evidence-taking process. That would be a sensible route to go down.

**The Convener:** Do members agree with the suggestion?

**Members** *indicated agreement.*

**The Convener:** We will refer the petition to the Health and Sport Committee, as it is actively considering the matter. It is a good petition, and I am sure that our colleagues on that committee will take its points on board.

**Chic Brodie:** I still think that we need to prompt those whom we ask for information to understand that we are not asking for it casually; we expect them to answer because we serve the people who sit at the other end of this table. I would also like to understand why Midlothian Council chose simply to lift the contents of the COSLA paper without giving any independent assessment of how the issue affects it.

**The Convener:** That is a good point, Mr Brodie. If we refer the petition to the Health and Sport Committee, we can still ask the people who have not written in why they did not do so, and raise the points that Chic Brodie has raised.

## A Sunshine Act for Scotland (PE1493)

**The Convener:** PE1493, by Peter John Gordon, is on a sunshine act for Scotland. Members have a note by the clerk, submissions and the SPICe briefing on international legislation. Obviously, there are a few options for action. Again, this is a strong and interesting petition.

One proposal is that we write to the Scottish Government to clarify what information it has requested from NHS boards and to confirm that all health board responses will be forwarded to the committee for consideration as written evidence. Other options include writing to the United Kingdom Department of Health.

**Jackson Carlaw:** I note that the Department of Health has indicated that it intends to provide a response. The issue involves quite a big principle and would have quite an important effect on policy. On this occasion, therefore, I am inclined to give a little more time to the process, as there might need to be a discussion that will inform any response that we receive. I would simply want to prompt those who have not responded at this stage, including the Scottish Government, to do so. I do not think that anyone is trying to frustrate our consideration of the issue; I just think that it would be better to consider the issue on a more informed basis.

**The Convener:** Do we agree to follow option 2, which I outlined earlier?

**Members** *indicated agreement.*

## Confidentiality Clauses (NHS Scotland) (PE1495)

10:45

**The Convener:** The next current petition is PE1495, by Rab Wilson, on behalf of Accountability Scotland, on the use of gagging clauses and agreements with national health service staff in Scotland. Members have a note by the clerk. I invite members to comment.

**Chic Brodie:** I recognise the work that has been done by Rab Wilson and the people who are working with him on the petition. Regrettably, in the past two months, I have had two instances of this issue arising in medical practices and a hospital in Ayrshire and Arran. I have taken them up because they affected me personally.

I say again that I do not understand why the issue is not taken seriously. First, I note that NHS Highland and NHS Borders do not feel that it is of such import that they need to respond to the committee. Secondly, when I look at the responses that we have had from NHS Lothian and NHS Grampian, I see—guess what?—that the answers to the first question are exactly the same. How much interest really exists in the issue? It is too easy to pick up somebody else's written statement and present that to us. The fact that the responses are exactly the same highlights that.

Some of the things that are being done require to be audited and faithfully followed, and I think that the Cabinet Secretary for Health and Wellbeing is committed to that. However, on the issue of making training available, whether it is online or not, we must ensure that there are meaningful outcomes, as established in the letter from the cabinet secretary, in various statements and by those health boards that have had the decency to reply. We need to ensure that the outcomes of things such as the human resources online system and the policy for preventing and dealing with bullying and harassment are as we would anticipate and that we have an open and transparent system.

If possible, I would like to see some of the settlement agreements as they are now—suitably redacted, of course. On practice, I would like to make sure that the appropriate things are being applied. Once the plans are in place, there might be a request to Audit Scotland at some stage to go in and check that they are being effected in the way in which they are meant to be, and certainly in the manner that we expect.

**Jackson Carlaw:** I hear what Mr Brodie says. I am not usually one to rush to the Government's defence, but it is clear from the cabinet secretary's response that the Scottish Government does not support an outright ban on the use of confidentiality clauses. That is a clear statement of the Scottish Government's position in relation to the petition. Therefore, it seems to me that the progress of the petition beyond that becomes a political consideration rather than a proposed outcome that the committee can hope to effect.

Although the issue is important, I think that it now becomes one of party politics and, in those circumstances, I am minded to move to close the petition.

**The Convener:** Before I bring Chic Brodie back in, I add that, unfortunately, some organisations have not yet responded, so there is a lack of completeness. I should have mentioned that at the start.

**Chic Brodie:** I totally disagree with what Jackson Carlaw has said. This is not an issue of party politics. I am being as robust as I can be in challenging the Government and the associated agencies to ensure that the outcome that we expect—openness and transparency—is achieved.

Of course there must be confidentiality or settlement agreements in terms of personal compensation and things like that. That is acceptable. However, what is not acceptable—the Government says this itself, and I support it—is any attempt to stop people highlighting processes that might be against the safety and interests of both employees and patients. Yes, we must have—

**Jackson Carlaw:** I understand that but in that case what is the object of the committee continuing its work on the issue? That is what I am unclear about.

**Chic Brodie:** From my point of view, the end objective—

**Jackson Carlaw:** —is to change the Government's view.

**Chic Brodie:** The Government's view is clear. We must progress things to ensure that at the end of the day the outcome is that there are no cases of bullying or harassment in the health service.

**John Wilson:** Mr Brodie is right to continue to raise concerns about certain confidentiality agreements—or what the petitioners describe as gagging orders—that have been placed on staff. I think that the paragraph at the bottom of the first page of the cabinet secretary's response to Mr Findlay makes it clear that the cabinet secretary is keen to ensure that no one should have an order placed on them that stops them speaking out on patient safety or treatment issues. Perhaps it is on that point that, as the convener has suggested, we should write to the organisations that have not yet responded. We should also write to the Scottish Government to seek assurances that it is doing everything in its power to ensure that NHS boards in Scotland are not subjecting staff to certain conditions that might be seen as gagging orders and which stop people speaking out.

As I understand it, the concern is that, although the cabinet secretary can make general comments, the relationship in question is between the doctor, the nurse, the staff member or whoever is involved and the NHS board, not the Scottish Government. In other words, the employer-employee contractual arrangement is between the NHS board and the employee. Nevertheless, we must ensure that the Scottish Government is sending out a clear message to boards and managers in those boards that we will not tolerate the use of gagging orders to deny staff the opportunity to speak out where they see wrongdoing.

We can write to the Scottish Government to seek clarification of the matter but, as I have said, we are mired in the problem of employee-employer relationships, which neither the Scottish Government nor the Cabinet Secretary for Health and Wellbeing has any control over. The legislation and guidance on relationships between employers and employees are currently vested with Westminster. However, we can certainly impress on the cabinet secretary the need to get the message out to health boards throughout Scotland that we expect all staff, whether or not they have raised issues of patient safety or working practices, to be protected and to have the right to continue to raise such issues.

**The Convener:** Those are useful comments. Indeed, that is why I am quite keen to have all the responses before we make any final decision on this petition. After all, there are other examples of health policies that the Scottish Government has laid down being interpreted in slightly different ways by different health boards. For example, the speed of response might be different. That was the case with insulin pumps, in which there was a world of difference between the approaches taken in different health board areas. That could be taken as an analogy in considering employment rights. In my view, we need to get responses from all the health boards before we make a final decision on what we do. As a result, I recommend that we write to the boards that have yet to respond and discuss the issue when we get back those responses.

**Chic Brodie:** John Wilson is right. I raised the point about employer-employee relationships in terms of legislation and compensation. The cabinet secretary has put out a pretty clear message. I want to keep the petition going, because I want to see the outcomes of the actions that we are told are taking place to ensure that they are effective. Until we are absolutely sure about that, I do not think that we should be shutting this petition off.

**The Convener:** The majority view is that we should continue the petition to make sure that we chase up the responses and look at the matter again in future. Is that agreed?

**Members** *indicated agreement.*

## Thyroid and Adrenal Testing and Treatment (PE1463)

**The Convener:** Our final current petition is PE1463, by Lorraine Cleaver, on effective thyroid and adrenal testing, diagnosis and treatment. Members have a note by the clerk and the submissions. I welcome Elaine Smith to the meeting. Members should note that since the committee's previous consideration of the petition, two of the petitioners—Marian Dyer and Sandra Whyte—have indicated that they no longer wish to be involved in it. I am sure that members would wish to join me in thanking Marian Dyer and Sandra Whyte for their efforts on the petition and wishing them well in the future. I invite Elaine Smith to make a brief contribution, because I know that she has taken a lot of interest in the petition and has a lot of expertise to share.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I thank the committee for the time that it has taken so far to look at this petition and for taking it seriously. That gives hope to hundreds, if not thousands, of people in Scotland, particularly, but not only, women.

The last time I was before the committee I was about to go to a conference—I believe that the video is now available; I do not know whether the committee has been able to see it. The conference was excellent and involved patients and people from the profession. I wanted to draw it to your attention, because it was particularly good.

I thank the committee for reading the personal stories that I handed out. Unfortunately, given that a number of the people involved want to remain anonymous, the stories cannot be put in the public domain. People are often frightened that they will be struck off from their GP practices. That fear runs through their stories. There is also the issue of GPs being frightened that they will be struck off for giving patients desiccated thyroid hormone. In relation to that issue, I advise the committee of the sad death of Dr Skinner, whom you will have heard a lot about. Dr Skinner did give patients desiccated thyroid hormone. As you may have read in some of the stories, his death has left some patients desperate to know what will happen to them and how they will stay well in the future if they cannot get the hormone prescribed.

I turn to the Scottish Government letter that the committee received. I will come to the more positive paragraph in a moment, but the second paragraph states that the Scottish Government has no plans to set up a short-life working group because

> "there is no evidence base to support the changes being sought by the petition."

That is a bit dispiriting for the petitioner. Perhaps it is based on not listening to patients and hearing their stories because they are parked on thyroxine. Patients who have an underactive thyroid are put on thyroxine and told, "If you take this pill, you'll be fine," so they do not connect the ME that they have been diagnosed with, the hair loss, the weight gain, the heart disease, the fibromyalgia or the depression with their thyroid problem. It seems to me that GPs do not tend to make that connection either.

The guidance on the quality and outcomes framework raises an issue. I understand that points are given for diagnosis, but a lot fewer points are given for diagnosing thyroid problems than for diagnosing depression, although depression can be part of the thyroid problem. That is worrying.

The Government letter refers to there perhaps not being a need for research. We need research to find the evidence—research that is funded not by big pharma but in a different way, so that it does not lead back to thyroxine being the be all and end all for thyroid problems.

11:00

The second part of the Scottish Government's letter seems more positive, in that the Government says that it will commission a piece of work, although I am not quite clear whether it will be specifically about thyroid conditions or all conditions. Perhaps the committee knows better on that.

The committee has to decide today whether to continue the petition or do something else. That is a matter for the committee, but if I might be so bold as to put my opinion on the record, I think that the committee could keep the petition open to await the outcome of the work that the Government is carrying out and then review the results of that work. Alternatively, members could consider that the issue is so huge—they may have seen that from some of the stories that they have read—that the committee might do its own inquiry, as it has done for other health issues, such as vitamin D deficiency and diabetes, which also tie back to thyroid problems, in one way or another, in quite a lot of cases.

The committee could do its own inquiry, but I think that getting this far in getting attention and action on the issue has been excellent. Patients like me have literally been brought back from the dead—I have no hesitation in saying that. If the issues could be addressed properly and patients could get on to the right treatment, it could save the NHS an absolute fortune in the long run.

The final issue is that there is still only one supplier of T3 in Scotland. I understand that at the moment one batch of T3 has had less potency than other batches, which again is causing people to be ill. The issues are on-going. Personally, I would be grateful if the committee would consider keeping the petition going to await the outcome of the Government's deliberations as well as looking further into the issues itself.

**The Convener:** I thank Elaine Smith for her time and effort, which have been very helpful. Elaine has made a couple of suggestions and there are also suggestions in our briefing paper.

My view is that it is important to keep the petition going. I would like to write to the Scottish Government to seek further details on the timescale for the work that it has committed to undertake in relation to the petition. That does not rule out taking anything further, but I think that we need to get that raw material. In the meantime, if the committee agrees, I see no reason why we should not also write to the Government about the supplier of T3. The Government might feel that the issue is not within its remit, but getting supplies of key medication in Scotland is a sort of devolved issue. It would be interesting to see what the Government's view is on that.

**Chic Brodie:** I agree in general with what you said, convener. Although the T3 issue is clearly very important, I believe that there is a much wider issue in terms of drug issuance and procurement. However, that is for another place, and I support the action that you suggested.

**Jackson Carlaw:** Given the round-table discussion that we had and the very personal testimony that we received and bore witness to, I am rather disappointed and disheartened by the Government's response. Elaine Smith made a very pertinent point when she said that there is a degree of ambiguity about the piece of work that is to be undertaken, in that it looks as if it might be going to broaden the issue out to be one of generality that is way beyond the particular area that we have been focused on. It would be helpful when you write to the Government about the timelines, convener, to get some idea of the scope of the work and whether it will cover every kind of condition. I want to see progress in relation to the condition on which we have taken a great deal of evidence and have a degree of understanding. I might not necessarily take the same view if conditions were being considered just in the general sense, which might lead to no action being taken at all. It is important that the thing that we have been looking at is not lost in the middle of a discussion about a lot of other things too.

**The Convener:** That is a fair point.

**Jackson Carlaw:** For example, the Government refers to

> "treatment in areas where the evidence is limited".

Well, that is homoeopathic medicine. We could be away off down all manner of side routes if we are not careful. It is important that we do not lose sight of the thing that we want to discuss.

**The Convener:** Exactly. The work needs to be more specific.

**Angus MacDonald:** I am keen to get further details from the Scottish Government on the timescale of its work, but we should bear in mind Elaine Smith's suggestion on the merits of an inquiry and keep that on the table for future consideration.

**Anne McTaggart:** I will not reiterate other members' suggestions, but I will highlight Elaine Smith's concerns about the limitations and production of T3. I am aware that we have approached the cabinet secretary before, but it is extremely important that we find out his views on the matter.

**David Torrance:** I am happy to go along with the recommendations.

**John Wilson:** Like other members, I agree that we need clarification on paragraph 3 of the Scottish Government's letter and what it will investigate. Unfortunately Jackson Carlaw is right in saying that a number of conditions could be the subject of such an investigation. The committee has dealt with a number of such issues and Elaine Smith has alluded to some of the conditions that could overlap into a wider debate.

We need the Government to respond more positively on the treatment of patients with the condition. Elaine Smith made an interesting point about T3's potency and how patients feel that something has changed in the medication that makes it less effective. I am aware that patients with other conditions have made similar points about the prescribed medication not having the same impact. Therefore, when we write to the Scottish Government we should ask it to investigate, if it can, the relative strengths of the medication to ensure that dosage, strength or whatever is consistent.

Given that there is only one supplier of the medication—in effect it has a monopoly on providing the drug—we should tell the Scottish Government about the need to be careful about such monopolies and that we should be seeking the best deal for not only the patients but the NHS.

**The Convener:** In summary, we will continue the petition and write to the Scottish Government in the terms identified, including on the issue of the monopoly supplier. We will keep our tactical options, such as whether to hold an inquiry, open until we receive the Government's response. Do members agree to that course of action?

**Members** *indicated agreement.*

**The Convener:** I thank Elaine Smith for coming along.

# Tackling Child Sexual Exploitation in Scotland

11:08

**The Convener:** We move on to agenda item 4. As members will know, following the publication of the committee's report, a debate was held in the chamber. Under the agreed protocol, the Scottish Government would usually respond to any committee report not later than two months after its publication, so a formal response is expected on 11 March.

That does not prevent the committee from taking any other action that it wants to take, however, and I have had discussions with Chic Brodie about the matter. We could write to the Minister for Children and Young People in advance of her formal written response to emphasise the importance of the inquiry and ask that she gives us an early response, as well as to reinforce the need for her to pick up and adopt the 28 recommendations. Whether we do that is purely a matter for the committee to decide on. A formal timescale is in place but, if members wish to do so, we could chase up the response.

**Chic Brodie:** The convener has embraced all the comments that I made to him and set out his own views. The inquiry is so important. Historically, we have lapsed into unconsciousness on the issue, so it is important that we maintain the high profile that the issue requires and ensure that action is pursued.

**John Wilson:** Convener, I seek clarification as to why you think that it would be relevant to ask for a response earlier than 11 March. My understanding is that the next meeting of the committee will be on 4 March. Therefore, any response that we receive on 11 March would be timely for our meeting on 18 March. I would rather have a considered response from the minister to the points and recommendations that we have made than rush ahead and get a response that may miss out or misconstrue some of the committee's recommendations.

**The Convener:** In answer to Mr Wilson's point, I was just reflecting the conversation that I had with Chic Brodie. We know what the statutory position is. Eight weeks is not eight months. We will get a response within that time period. It is purely a matter for the committee. I merely raised a point that was interesting to me.

**Jackson Carlaw:** I am content to wait until 11 March on the basis that we might end up getting the Government's response to the report sooner than we would get a response to the letter requesting that it respond to us sooner than the official date.

**The Convener:** I am honestly relaxed about just waiting for the eight-week period. I just thought that I would reflect some discussions that I had had.

**Chic Brodie:** For clarity, I am happy that we wait. The purpose and intent behind my request to the convener was to ensure that, when the reply comes back, we do not allow the matter to be shuffled off to the side as a great inquiry and debate, thanks very much. The issue is so important that we want some action.

**The Convener:** Exactly. Also, as members know, there was a high media interest in the inquiry—quite rightly. This week, I was approached by *The Times Educational Supplement*, which is doing something next week. Angus MacDonald will be glad to know that BBC Alba is running the story on its magazine programme this week.

**Angus MacDonald:** Convener, I am not so pleased to know about my local authority's recent decision to reduce funding for Open Secret, which certainly does not help matters. I will make representation to the local authority on that decision over the next few days.

**John Wilson:** Angus MacDonald is right to raise an important issue. The committee has published a report in which it stressed the need for services not only to continue to be delivered, but enhanced to ensure that we can deal with child sexual exploitation. As Angus MacDonald rightly identified, however, local authorities are taking decisions ahead of possible recommendations from the Scottish Government.

If you are desperate to write to the minister on the issue, convener, it might be useful to write to seek clarification on the discussions that have taken place with local authorities ahead of any response that the Scottish Government produces to our report on child sexual exploitation in Scotland and find out whether there will be additional funding or encouragement for local authorities to continue to deliver, and enhance the delivery of, services that tackle it.

**Chic Brodie:** I agree with that. My sole objective, which is probably more emotional than anything else, is to ensure that we do not allow the matter to be put on the back-burner under any circumstances. John Wilson's recommendation is apposite.

**The Convener:** Do members have any views on that? John Wilson suggested that we write to the minister about the role of local authorities on the matter.

**John Wilson:** We should also draw attention to Falkirk Council's decision to reduce funding to Open Secret because it would be relevant and, I hope, help the minister, when she responds to the report, to identify and indicate what role the Scottish Government sees for local authorities in relation to the delivery of such services.

**The Convener:** Do members agree to that?

**Members** *indicated agreement.*

*Meeting closed at 11:14.*

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