



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### **PUBLIC PETITIONS COMMITTEE**

Tuesday 31 March 2015

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.scottish.parliament.uk](http://www.scottish.parliament.uk) or by contacting Public Information on 0131 348 5000

---

**Tuesday 31 March 2015**

**CONTENTS**

	<b>Col.</b>
<b>CONTINUED PETITIONS</b> .....	1
Gender-neutral Human Papillomavirus Vaccination (PE1477) .....	1
A Sunshine Act for Scotland (PE1493) .....	1
Access to Justice (PE1525).....	3
Social Care (Charges) (PE1533).....	4
<b>NEW PETITIONS</b> .....	6
Mental Health Legislation (Inquiry) (PE1550).....	6
Concessionary Travel (War Veterans) (PE1549) .....	12
Disabled-friendly Housing (PE1554) .....	16

---

**PUBLIC PETITIONS COMMITTEE**

**8<sup>th</sup> Meeting 2015, Session 4**

**CONVENER**

\*John Pentland (Motherwell and Wishaw) (Lab)

**DEPUTY CONVENER**

\*David Torrance (Kirkcaldy) (SNP)

**COMMITTEE MEMBERS**

\*Jackson Carlaw (West Scotland) (Con)  
\*Kenny MacAskill (Edinburgh Eastern) (SNP)  
\*Angus MacDonald (Falkirk East) (SNP)  
\*Hanzala Malik (Glasgow) (Lab)  
\*John Wilson (Central Scotland) (Ind)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jacq Kelly (Leonard Cheshire Disability)  
Andrew Muir  
Stephan Thomson  
Alan Young

**CLERK TO THE COMMITTEE**

Anne Peat

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Public Petitions Committee

*Tuesday 31 March 2015*

*[The Convener opened the meeting at 10:00]*

### Continued Petitions

#### Gender-neutral Human Papillomavirus Vaccination (PE1477)

**The Convener (John Pentland):** Good morning. I welcome everyone to the eighth Public Petitions Committee meeting of 2015. I remind everyone to switch off their mobile phones and electronic devices, as they interfere with the sound system. No apologies have been received.

The first item is consideration of four continued petitions. The first is PE1477, by Jamie Rae, on behalf of the Throat Cancer Foundation, on the gender-neutral human papillomavirus vaccination. Members have a note by the clerk. I invite contributions from members.

**Angus MacDonald (Falkirk East) (SNP):** I am certainly keen to keep the petition open, at least until the Joint Committee on Vaccination and Immunisation has the data from the modelling of the cost-effectiveness of the proposal. Given that there is a further investigation under way, I propose that the committee reconsider the petition once the JCVI has concluded its research and issued formal advice. I note that the modelling for the gender-neutral HPV vaccine will not be completed until 2017 at the earliest, so clearly the petition should be kept open until we have that further information.

**Jackson Carlaw (West Scotland) (Con):** I am happy to support that.

**David Torrance (Kirkcaldy) (SNP):** I am happy to support that.

**The Convener:** Are we agreed that we will follow that course of action?

**Members** *indicated agreement.*

#### A Sunshine Act for Scotland (PE1493)

**The Convener:** The next petition is PE1493, by Peter John Gordon, on a sunshine act for Scotland. Members have a note by the clerk and the submissions. I invite contributions from members.

I will comment before we come to a decision on action. Guidelines were issued as far back as 2003. It appears that before the matter came back

to the attention of the Scottish Government the guidelines had been either completely ignored or totally forgotten.

I suggest that we write to the Scottish Government expressing strong support for the establishment of a register. In doing so, I suggest that we ask that the register be more statutory, because guidelines appear to have been ignored.

It is alarming that it was not until the Scottish Government started asking questions after the matter was brought to its attention by Mr Gordon that we found out that the guidelines had not been implemented. That is why I suggest that we write to the Scottish Government to ask that the register be made statutory rather than just provided for in guidelines.

**Angus MacDonald:** I am happy to agree. I would like to take the opportunity to congratulate the petitioner on highlighting the issue, thereby ensuring that the Scottish Government has realised the inadequacies of the 2003 circular. I am encouraged by the response from the Scottish Government, which has initiated the review as a result of the petitioner's work.

I would be content to close the petition on the basis that the issue is being actively taken forward by the Scottish Government, and to write to the Scottish Government expressing strong support for the establishment of a register.

**Jackson Carlaw:** Can I be a slightly dissenting voice? I remember Mr Gordon presenting the petition in September 2013; he gave an excellent presentation. I was, however, unpersuaded about the nature of the register or about putting it on a statutory footing, although I thought that he raised some important issues.

I note that the Scottish Government is undertaking a review. I am inclined to support the review and to see what conclusions arise from it, rather than to decide at the moment that we should advocate the establishment of a register or that it should be on a statutory footing. I am not sure that that is where the review will end up. Important issues have been raised, but some of my concerns—about the register and it being put on a statutory footing and the practicalities of that—remain.

**John Wilson (Central Scotland) (Ind):** I am trying to walk a middle line here in relation to what Angus MacDonald suggested, which was to congratulate the Scottish Government on holding a review and close the petition. I do not think that we can close the petition. We need to wait and find out what the Scottish Government's review is going to contain if we are going to do justice to the petition and the issues that have been raised by the petitioner. We should keep the petition open and we should ask the Scottish Government when

it intends to carry out its review and the timetable for the review being published, and we should also ask the Government to consult the petitioner regarding the review, to ensure that the issues raised in the petition are covered in the review.

Clearly, in 2003 the then Scottish Executive felt that it was relevant to have some form of register; it put its trust in the health boards to carry out that work. We are 12 years down the road and we are still trying to achieve something workable. It would be useful to find out from the Scottish Government exactly what it intends to do and what the results of the review may be. If technical issues are identified in the Scottish Government's response in relation to information technology compatibility and other issues, let us resolve them and move things forward. I am minded to keep the petition open with the proviso that we await the Government's review, but we should also ask the Government to include the petitioner in discussions about the review.

**Jackson Carlaw:** I welcome John Wilson's suggestion. When we see the outcome of the review I may be persuaded to recommend the establishment of a register. However, I would like to await the review if the committee feels that that is possible.

**Angus MacDonald:** The Government has pledged to engage with the petitioner, which is clearly very welcome. I take on board John Wilson's points—he made a valid point about keeping the petition open while we monitor progress. My support for the petition is now on record, but I am happy to agree with colleagues to keep the petition open and to monitor proceedings.

**The Convener:** Okay. The consensus is that we keep the petition open and write to the Scottish Government. By way of explanation, I say that the reason why I talked about a statutory requirement was that it appears that the best models—which have been identified in France and the USA—are bound by statute.

Are members happy to move forward with the action that has been recommended?

**Members indicated agreement.**

### Access to Justice (PE1525)

**The Convener:** The next petition is PE1525, by Catherine Fraser, on access to justice. Members have a note by the clerk and the submissions. I invite contributions from members.

**Kenny MacAskill (Edinburgh Eastern) (SNP):** We should close the petition: we have gone as far as we can. The petitioner has raised the matter and the Government, the Scottish Legal Aid Board and the Justice Committee appear to have made

their positions quite clear. There is a historical anomaly—not just since I started practising law in 1980, but since legal aid came in in the 1960s. There has never been legal aid available for defamation, either to pursue or to defend. That was decided on a public-interest basis in order to discourage people from taking recourse to litigation when they felt slighted. Scotland has significantly fewer such cases than there are south of the border.

I appreciate that the situation is an anomaly, but there are two reasons for it. First, the petitioner is asking for legal aid only to defend; it would be rather perverse to allow legal aid to defend but not to pursue. Is it not as bad to be the victim of defamation as it is to be the person accused of defaming somebody? If there were to be legal aid available, there would need to be equality of arms so that it would be available both to those who wish to pursue a claim and to those who are being pursued for having committed defamation.

Secondly, there is a public interest; legal aid is under huge pressure. The Government is facing financial challenges, and the Scottish Legal Aid Board is doing a remarkable job in trying to keep civil legal aid available in areas including asylum, employment and domestic violence. The budgetary constraints militate against any widening of the scheme at present.

Given that neither Parliament nor the Government, nor a statutory body such as SLAB, has indicated any interest in changing the scheme, I cannot see where we can take the matter other than simply to acknowledge the petition and to close it.

**David Torrance:** I am happy to back Kenny MacAskill's suggestion that we close the petition.

**The Convener:** In supporting the suggestion to close the petition, I will only comment that, although I fully understand that the Government may be under financial pressures, defamation should be considered in a broader context, so perhaps the Government can do so at a later date if financial pressures lessen a wee bit.

Do members agree to close the petition?

**Members indicated agreement.**

### Social Care (Charges) (PE1533)

**The Convener:** The final continued petition today is PE1533, by Jeff Adamson, on behalf of Scotland against the care tax, on abolition of non-residential social care charges for older and disabled people. Members have a note by the clerk and the submissions. I invite contributions from members.

**Kenny MacAskill:** The Government has indicated some willingness to look at the matter, and we should encourage it to do so expeditiously and to report back. It would therefore be premature for the committee to make a decision beyond simply encouraging the Government to get on with it and keeping the petition alive pending some reasonably speedy—one hopes—discussions.

**The Convener:** Do members agree that we will write to the Scottish Government to request that it convene a round-table discussion as requested by the petitioner and report back to the committee?

**Members** *indicated agreement.*

**The Convener:** Thank you. We will suspend for a few moments.

10:12

*Meeting suspended.*

10:13

*On resuming—*

## New Petitions

### Mental Health Legislation (Inquiry) (PE1550)

**The Convener:** Item 2 is consideration of new petitions. We will consider three new petitions, and the committee will hear from the petitioner on each one.

The first new petition is PE1550, by Andrew Muir, on behalf of Psychiatric Rights Scotland, on a mental health legislation inquiry. Members have a note by the clerk and a Scottish Parliament information centre briefing.

I welcome Mr Muir to the meeting, and invite him to speak to the petition for no more than five minutes to explain what it is seeking. Thereafter, we will move to questions.

10:15

**Andrew Muir:** Good morning, and thank you for allowing me to speak. I am secretary of Psychiatric Rights Scotland.

We desperately need an inquiry into abuse under mental health legislation—the Mental Health (Scotland) Act 1984 and the Mental Health (Care and Treatment) (Scotland) Act 2003—as there are no other options for survivors. I know people who have been complaining for more than a decade and are still not being listened to.

Abuse happens behind closed doors, in secret. MSPs are—cleverly—not told about it; instead, they are told about other matters such as access to services or stigma. It is not patients but professionals who appear before committees.

There are many types of abuse by professionals on patients, including verbal abuse, false statements on documents and at tribunals, and physical or sexual assaults. The worst types are usually the chemical assaults: getting all those drugs can leave a person unconscious or severely disabled, and can lead to a severe shortening of life or to early death.

In 2012-13, the Mental Welfare Commission for Scotland was notified that 78 people died while on compulsory treatment. The MWC said that that was an unfortunate side effect of mental illness, but I do not think so—I think that it is the drugs that cause early death.

Over the past eight years, I have been to many meetings and heard people complaining about abuse, but they never get a proper answer. People

are not believed; they might be told that they lack insight because of their illness, or that the professional is always right.

No one has ever been charged with the offence of making a false statement on a document, and no one has ever been censured for misleading tribunals. The Mental Welfare Commission never names and shames a professional in its reports. Instead, it deliberately covers up abuse to protect fellow professionals. The General Medical Council in Scotland and the Scottish Social Services Council will just defer to the professionals' employer, who will not admit errors due to the possibility of having to pay compensation. Organisations fail to investigate abuse properly, and victims are not listened to enough.

Patients do not win civil legal cases either, due to the lack of human rights lawyers and the barriers in the archaic Scottish legal system. The Scottish legal precedents are set up to work against the individual.

Being abused is a horrific experience; patients have described it as being like Auschwitz. Several people have had to flee Scotland to avoid further persecution. Some people have committed suicide, and one person set fire to a psychiatric ward and closed it down because he did not know what else to do.

There are no safeguards to prevent someone from being wrongly detained. There are supposed to be second opinions and advocates, along with the Mental Health Tribunal for Scotland and the Mental Welfare Commission and so on, but they nearly always take the side of the professional.

The abusers always deny their actions, and use lawyers to protect them. Cases are time barred. Jimmy Savile got away with abuse in psychiatric settings for decades.

As the committee will know, Hunter Watson lodged petition PE1494 on making the 1984 and 2003 acts human rights compatible. The petition had 286 signatures, and many of those people related their stories of experiences that have not been investigated. Their stories are just the tip of the iceberg; they are the survivors, but many others have died. An inquiry would enable survivors to get the truth and would, I hope, prevent their horrific experiences from happening to others in the future.

If the Government agrees that an inquiry should be held, it might be worth while to clarify in advance the range of actions that might constitute abuse. Witnesses should, whenever practicable, be interviewed by whoever is conducting the inquiry, and there should be no question of relying on written testimony unless it is absolutely necessary.

If the inquiry is not to be led by a judge, those who wish an inquiry to be held should have some say regarding the suitability of those who are invited to conduct the inquiry. We would have no confidence in the ability of certain individuals and organisations to be impartial. The remit of the inquiry should be sufficiently wide to be able to determine in each case how the abuse was allowed to occur. That would make it easier to learn lessons, and hence to make recommendations that might benefit mental health patients in the future. That should be the primary objective of the inquiry, although not necessarily the only objective.

MSPs created the Mental Health (Care and Treatment) (Scotland) Act 2003, which contains no effective safeguards and under which a person has no effective human rights. It was rushed through Parliament with little thought for the consequences, and it came into effect in 2005. I would now like MSPs to make up for that by listening to people's testimonies, by examining medical notes, tribunal transcripts and court judgments and by allowing people and their families to get justice. Thank you.

**The Convener:** Do any members wish to pose questions?

**Kenny MacAskill:** What do you feel is the current impediment to the Mental Welfare Commission? Is there a lack of will, a lack of powers or a lack of focus? Where are the gaps?

**Andrew Muir:** I think that there is a lack of will. Previously, the Mental Welfare Commission was run by psychiatrists, but most of the errors are made by psychiatrists and people do not want to be critical of their profession—that is human nature. Now a lawyer, Colin McKay, is in charge; lawyers make a lot of money from mental health legislation. They are on every tribunal and first, second and third lawyers are needed. An investigation is a bad reflection on the profession, which is what is preventing the commission from investigating. There is just too much money in the system. There is not the will to investigate.

**Kenny MacAskill:** I am interested in your point that there might sometimes be negligence or even worse. I recall being involved in a court case in which there had not been a proper second opinion and something had just been signed off. What evidence is there of scrutiny by the British Medical Association, the Royal College of Psychiatrists or whatever? You said that no action had been taken, but can you elaborate on what steps, if any, are taken when there clearly has been a failure in due process? I know from experience that that occurs from time to time.

**Andrew Muir:** People can go through the whole process; they can go to the General Medical



Council, but it just tends to refer them back to the national health service. The council calls it a level 2 case, even if a criminal offence has occurred, and the case goes back to the NHS. The last thing the NHS will do is admit liability—the NHS will just deny it. There are no avenues; people have tried all sorts of ways. There are plenty of civil court judgments that I would like members to look at, in which sheriffs have made ridiculous decisions, because they did not understand the mental health legislation and so dismissed cases, saying, “The professional is infallible and cannot make a mistake,” or asking, “Where is the professional to back you up? You are just a family, so why should we believe you?”

Members have to examine the cases and look at tribunal transcripts; you have to look at real-life cases and listen to what people have said. Complaints do not work.

**Jackson Carlaw:** There is a slight contradiction that I would like to get your perspective on, Mr Muir. You referred to the inquiry that the Government is establishing into historical abuse of children in care. Obviously, in the course of that inquiry, the Scottish Government will potentially bring to public light episodes that will be deeply unflattering and appalling to many. There is, at least, a lack of concern about covering up the issue and there is a willingness to allow it to be brought into the public domain. Given that that degree of scrutiny does not seem to frighten the Government in that case, what rationale or explanation have ministers given, when you have contacted them, for not wishing to carry out the inquiry that you suggest or not deeming it to be necessary?

**Andrew Muir:** They just pass the buck. When I contacted Michael Matheson, he said that the Mental Welfare Commission had looked at the issue, and the Mental Welfare Commission told me to go to court. It is just a circular argument. They do not fully understand all the barriers. Michael Matheson just said that the Mental Welfare Commission said that the situation is fine.

**Jackson Carlaw:** Given that much the same could have been said in relation to an inquiry into abuse of children in care, there must be something further that ministers and others are relying on in determining that they do not feel that the inquiry that you suggest is necessary. Have you had any explanation of that kind?

**Andrew Muir:** I get single-sentence answers: even Jamie Hepburn just said that he would do his best to make sure that things are human rights compatible, and Michael Matheson gave a single sentence. There is no depth to the answers, and ministers will not go into detail on what has gone wrong. The patients and families have given a

page on all the problems, but there is nothing in response.

**Jackson Carlaw:** This is where I am unfamiliar with the full circumstances to which you refer, but in relation to abuse of children in care, certain individuals' actions have obviously been brought into the public domain—with a certain public notoriety, as you indicated—which has evidenced the argument that the inquiry is now going to examine. You allege that people have died as a result of the chemical treatment that they have been on. Is there evidence for that?

**Andrew Muir:** The strongest evidence is family members. Spouses and children, for example, have seen people's health deteriorate under the drugs, and they have seen them dying. That is the strong evidence—it is from the family.

**Jackson Carlaw:** When an individual has died, did the matter arise as part of any post mortem or examination of the cause of death?

**Andrew Muir:** There have not generally been any suitable answers. Families are just told that the person died while in hospital, or whatever. The family might say that the drugs killed the person, but that will be the end of it. Families have made complaints and have discussed the various reasons for what happened, but they were not listened to and procedures were not followed. They tend not to get any satisfaction.

**Hanzala Malik (Glasgow) (Lab):** I apologise for being late.

I get the feeling that there is a lot of frustration in where you are coming from; I can see the difficulty that you might face. It is a very easy cop-out for people to say that an expert has said this or that. An inquiry would probably be helpful, and I would like to support that wish of yours. A lot is happening in this area. There are a lot of complications. If families feel let down or betrayed, we need to look into that.

**The Convener:** The petition states:

“No-one has ever been convicted of an offence under s315 or s318 of ... the Mental Health (Care and Treatment) (Scotland) Act 2003 ... despite many allegations by patients and their families.”

We have since found out that there have been 46 prosecutions under section 315, which have resulted in 16 convictions, with a number of cases still on-going. Has that in any way changed your view on the petition?

**Andrew Muir:** When I lodged the petition I did not know about that. I got my MSP to ask a written parliamentary question. At the time, I was told that there was no information. It was somebody who was not in our group who asked the question. That has helped slightly, but I expect that most of the offences to which the convener referred are to do

with physical assaults, and have not involved the worst of it, which is the chemical deaths.

There have still not been any prosecutions under section 318 of the 2003 act, which refers to false statements. This is how people can be wrongly detained in the first place; they can be diagnosed with the wrong illnesses—illnesses that are not real—and examinations do not take place. The fact that a section 318 offence has never been prosecuted greatly troubles me.

**The Convener:** There are no further questions from members. What action would the committee like to take?

**David Torrance:** The Health and Sport Committee is considering the Mental Health (Scotland) Bill. Would it be appropriate to refer the petition to that committee?

**Jackson Carlaw:** I am inclined to think that that is what we might do ultimately, but it would be appropriate to write to the Scottish Government. I do not think that we should cast our net far and wide, because the issues are important, but I do not think that it would be inappropriate to write to the Scottish Government asking for its views on the petition, asking it to draw the parallel with the inquiry that it is holding into the abuse of children in care and asking it why it does not feel that an inquiry in this instance is appropriate. We could draw on some of the comments that the petitioner has made.

At the very least, if we were eventually to refer the petition to the Health and Sport Committee, where I think it would be more properly considered, we would have the background underpinning the reason why the Government has not, to date, sought to pursue the aims of the petition despite those having been drawn to its attention. Given the support that Hanzala Malik has expressed in principle, it would be useful to understand why the Government has not done that.

**The Convener:** Do we agree to take on board the comments of Jackson Carlaw and to write accordingly, and in doing so also to refer the petition to the Health and Sport Committee? Otherwise, the opportunity of legislation might be lost.

**Members indicated agreement.**

**The Convener:** I thank you for attending, Mr Muir.

10:30

*Meeting suspended.*

10:31

*On resuming—*

### **Concessionary Travel (War Veterans) (PE1549)**

**The Convener:** The next new petition is PE1549, by Alan Clark Young, on concessionary travel passes for war veterans. Members have a note by the clerk and a Scottish Parliament information centre briefing.

I welcome Alan Young to the meeting and invite him to speak to his petition for approximately five minutes, after which we will move to questions.

**Alan Young:** I thank the committee for giving me the opportunity to make a representation on the petition.

The petition calls on the Scottish Parliament to urge the Scottish Government to ensure that all war veterans who are in receipt of a war disablement pension can get a concessionary travel pass.

As members know, I was in the Territorial Army for six years. In 1982, while I was serving, I had a bad accident that led to 20 per cent disablement in my right leg. For many years, I have campaigned to get a concessionary travel pass not just for me but for every war veteran who is in receipt of a war disablement pension. I have engaged with several politicians at local and national levels from my home in Fife. I have written to the former Prime Minister Gordon Brown; the current Prime Minister, David Cameron; the current First Minister of Scotland, Nicola Sturgeon; the MSP for Kirkcaldy, David Torrance; the armed forces champion at the Scottish Parliament, Keith Brown MSP; and the armed forces champion at Fife Council, Charles Haffey. As well as engaging with those politicians, I have directly engaged with Fife Council and Transport Scotland, and I am now taking my campaign directly to the Scottish Parliament.

The petition was originally opened in January and was officially lodged on 28 February 2015 with 103 signatures in total. I was pleased to see that those included those of Cameron Buchanan MSP and Hanzala Malik, who is a member of the Public Petitions Committee: thank you, sir.

I am sure that the committee agrees that this country has a responsibility to look after its injured war veterans and to provide them with the necessary support to allow them to undertake the tasks of everyday life. Many people who have left the Army have been hindered in their attempts to

access employment that is suitable to their impairments, because they have no access to affordable means of public transport, which would allow them to take well-paid jobs outwith their local area. That would also benefit the Scottish economy, because it would encourage more ex-services personnel to get back into work rather than be held back by their disability.

It is evident to me that there is a gap in support for war veterans like me who have suffered impairments, but who still have to get on with daily life and work. There is an extensive list of tariff levels of injuries, which covers amputations, neurological disorders including spinal cord, head and brain injuries, and senses. However, it does not cover people like me who are in receipt of a war disablement pension and have between 20 and 40 per cent disablement.

That gap in support for those who have between 20 and 40 per cent disablement is a disadvantage to ex-service personnel who are hindered by their disability but are unable to receive any additional financial support for travelling to and from their workplace. It is important to note that the cost to the Scottish Government of an initiative to provide concessionary travel passes for people who are above 20 per cent but below 40 per cent disabled, of whom there are in the region of 3,000 to 4,000, would be a small price to pay.

The concessionary travel pass would go a long way towards allowing veterans to help themselves. It is within the gift of the Scottish Government to introduce legislation to enable concessionary travel passes for war veterans who are in receipt of a war disablement pension. The committee and the Scottish Government have a real opportunity—and the power—to make a real difference to those people's lives. Let us use this opportunity to show the rest of the UK that Scotland continues to care about its servicemen and servicewomen. I ask the committee to consider the petition fully and to urge the Scottish Government to change the law in Scotland to ensure that all war veterans who are in receipt of a war disablement pension receive a concessionary travel pass.

Thank you, gentlemen and ladies.

**The Convener:** Thank you, Mr Young. Do members have any questions?

I will start. In his letter to the convener of the Infrastructure and Capital Investment Committee, the Minister for Transport and Islands, Derek Mackay, states that creating a separate category for eligible persons

“was not pursued due to the potential for legal challenge on disability discrimination grounds from civilians with similar disabilities.”

He goes on to say that he has

“no plans to extend the eligibility criteria for the NCTS at this time.”

What would you say to try to change his mind?

**Alan Young:** I would say that, surely, it makes common sense to keep guys like me and others in employment to support the Scottish Government instead of having us move towards the benefits trap that everybody would be in, on low wages. It makes perfect sense to support people now rather than later. That will save the Government money in the long run. People like me want our independence. That is how I feel, anyway.

**Jackson Carlaw:** Good morning and thank you for your petition. Is there something technical in calling people “war veterans” as opposed to “service veterans”?

**Alan Young:** They just changed the name.

**Jackson Carlaw:** So, by “war veterans” you mean anybody in the armed services who suffers a disability as a result of their service.

**Alan Young:** That is correct.

**Jackson Carlaw:** You mentioned that you are talking about 3,000 to 4,000 veterans. Where does that number come from?

**Alan Young:** I spoke to Ruth Bishop in the Government's transport department in 2011 about it and she gave me the figure of 3,000 at that time. She said that cost was not an issue and that the legislation was designed to make it easier for war veterans—or service veterans, or whatever you want to call them—with a disability to get concessionary travel.

**Jackson Carlaw:** Do you know where she got that number from?

**Alan Young:** No. I did not ask her that question. I imagine that she knew about the matter.

**Jackson Carlaw:** It is an estimate that may or may not be evidenced somewhere.

**Alan Young:** Yes. It may not be evidenced.

**Jackson Carlaw:** We will need to find that out. I do not know whether you are aware of the contents of Derek Mackay's letter to Jim Eadie, who is the convener of the Infrastructure and Capital Investment Committee.

**Alan Young:** I have read it.

**Jackson Carlaw:** Although Mr Mackay is sympathetic to the aims of the petition and although the Government was minded to see whether it could accommodate the aims of the petition, they have been advised that there would be

“the potential for legal challenge on disability discrimination grounds”

from other people in society who have similar disabilities. Do you acknowledge that point?

**Alan Young:** I understand the minister's point of view, but I do not think that any civilian would complain about an ex-serviceman getting a concessionary travel pass to make their life easier.

You mentioned discrimination: it takes many forms. For example, I could easily say that, because of the Government's decision to give everyone over 60 a concessionary travel pass, those people are getting a better deal than those who are under 60. There are many forms of discrimination, but I do not think that that should be used as an excuse for not pursuing this matter.

**Jackson Carlaw:** Thank you.

**The Convener:** If the committee has no further questions, I ask members for suggestions about the action that we should take on the petition.

**Hanzala Malik:** I have already indicated that I support the petition in principle. Our servicemen and servicewomen pay a huge price for us, so we really need to look at this matter again. As for discrimination, I take the petitioner's point about the cut-off age for concessionary travel passes; those who would really want to pursue such matters more vigorously would have opportunities to do so. I do not think that the minister provides strong grounds for not continuing with the petition. We should see whether the Government is able to re-examine its position and come back to the committee on the matter.

**Jackson Carlaw:** Unusually, we already have an indication of the Scottish Government's attitude to the petition in the letter that was sent to the Infrastructure and Capital Investment Committee. I am interested to know how the estimate of the number of people who might be affected has been validated. Moreover, if there is an issue with discrimination, I would be quite interested to find out how many other people might be involved if the criteria were applied generally to the population. In other words, if the Government acted in such a way as to remove discrimination, exactly how many people would require to be facilitated in that way? Such additional information might be helpful.

I also recommend that we write to organisations including Poppyscotland, Help for Heroes, the Royal British Legion, the Scottish Veterans Commissioner and Transport Scotland for their views on the petition, but it would be interesting to get a bit more out of the Scottish Government about what it thinks might be the implications and costs of the proposal. It could quite legitimately provide that estimate and allow us to understand its thinking on this matter.

**Hanzala Malik:** We should also write to the forces board in Scotland to find out whether it would support this petition.

**David Torrance:** Jackson Carlaw has covered all the points that I was going to make, convener, and I fully support his recommendation.

**The Convener:** Do we agree, then, to write to the Scottish Government, asking about the proposal's cost implications and in what respects it might discriminate against other groups, and to the organisations that Jackson Carlaw referred to?

**Hanzala Malik:** We should also write to the forces board in Scotland, convener. I will give you the details.

**The Convener:** Are members agreed?

**Members indicated agreement.**

**The Convener:** I thank Mr Young for his presentation, and—

**Alan Young:** I am sorry for interrupting, convener, but I would like to make it clear that my proposal is quite simple. Those who have between 20 and 40 per cent disablement would get only the concessionary travel pass; they would not get all the other benefits that people with 40 per cent or more disablement get. As a result, the cost implications to the Scottish Government would not be immense. In fact, it would be a small amount of money.

I also take Mr Carlaw's point about other people being affected. I certainly do not want to stand in their way if there is an issue of discrimination, but I want to make clear what I am asking for.

**The Convener:** That was extremely helpful, Mr Young. Thank you for attending.

10:44

*Meeting suspended.*

10:46

*On resuming—*

### **Disabled-friendly Housing (PE1554)**

**The Convener:** The final new petition is PE1554, by Jacq Kelly, on behalf of Leonard Cheshire Disability, on improving the provision of disabled-friendly housing. Members have a note by the clerk and a SPICe briefing.

I welcome Jacq Kelly, who is the Scotland policy and parliamentary officer for Leonard Cheshire Disability. She is accompanied by Stephan Thomson, a Leonard Cheshire Disability service user. I invite Ms Kelly to speak to her petition for five minutes, to explain what it seeks to do, after which we will move to questions from members.

**Jacq Kelly (Leonard Cheshire Disability):** Our petition calls on the Scottish Government to make lifetime home standards the standard for ordinary builds and for 10 per cent of those builds to be wheelchair accessible.

Lifetime homes are a straightforward concept—basically, they are homes that people should be able to live in for their entire lives. They are not the same as completely accessible homes but are homes that can be adapted quite simply at relatively low cost—usually about £1,100. At the time of building a home, the builder thinks about adaptations that might be necessary in the future. There is a misconception that there are disabled people and non-disabled people. Our view is that anybody could be disabled in the future and they might not want to move out of their home because they want a good quality of life.

The principles of lifetime homes are fairly straightforward. They are about inclusivity, accessibility, adaptability, sustainability and good value. They have accessible doorways that people can fit a wheelchair through even if the people who are living in them are not wheelchair users at the time. That means that, if they become wheelchair users at some point in the future, it will not cost a huge amount of money to change the doorways to enable them to remain in their homes.

Lifetime homes also have reinforced walls so that grab rails can be installed. Grab rails are very important for allowing people to stay in their homes if they acquire a disability, but many walls are too flimsy for them and a grab rail will come straight down. Putting in a reinforced wall at the beginning, at the point of building a home, is much cheaper than making the adaptation later, not least because that is the sort of thing that leads to people having to go into residential care when that is not their choice or having a longer stay in hospital when they would like to get back into their home.

The other week, we had the announcement on health and social care integration from the Cabinet Secretary for Health, Wellbeing and Sport. The extra £200 million that she announced towards that was welcome, but we know that one of the major factors in integrating health and social care properly is the availability of accessible, adequate housing.

We have heard stories about people having to live in the downstairs of their homes and wash in their kitchen sink, for example, because they do not have a bathroom that could be adapted for a wheelchair to fit into. Stephan Thomson will talk a little about his experience of that after I have finished.

I will explain why we chose to petition on this particular issue. I know that you have our

submission, but I will give you a brief overview of our research. We found that, in the UK, one in six people with disabilities and half of all children with disabilities live in homes that do not meet their needs. Almost three quarters of people with disabilities in Scotland report that they live in a home with an inaccessible front door. At the current very slow rate of increase, it would take 62 years for there to be enough wheelchair-accessible houses for the people in Scotland who need them.

We just do not think that it is acceptable that anybody has to wash in their kitchen sink, is unable to get in and out of their house, is confined to it because the front door is inaccessible or has to go into residential care when that would not be their choice. There is nothing wrong with residential care when it is somebody's choice, but 35 per cent of our residential service managers say that they have at least one person in their care home who would have chosen not to be there if they could have stayed in their own home. We think that that is completely unacceptable.

That is the personal cost to the individual; there is also a knock-on effect for the public purse. A study that we did recently—you will not have seen it yet as it is new research that we have just completed, but I can send it to you—shows that in January alone Scottish general practitioners spent the equivalent of four and a half working months, which equates to 939 hours, dealing with disabled and older patients because of injuries and illnesses caused by living in inaccessible homes. If that is true of all GPs in Scotland, it amounts to 27.3 million hours every year. The £1,100 figure looks tiny in comparison.

Stephan Thomson will talk about his experiences, and then we will be happy to take questions. You might want to ask about the lifetime home standard and what is covered by Scottish building regulations, because some things are covered. The Scottish Government is looking into amending those regulations, but we think that that could make homes less accessible in the longer term.

**Stephan Thomson:** I live in a house that is supposed to be wheelchair adapted, but it is actually just a wheelchair-friendly house. As for the point that Jacq Kelly made about doors and things being wide enough, with my chair I cannot move freely on my own in my home. I cannot turn 360° in my hallway or wear my footplates in my hallway to get in and out of the front door, which causes problems. I had to get my front door adapted to an electric door simply because it had a lip on it. Basically, I had to take a run at it to get into the house because there was a drop. Before I had my door put in, I actually fell out of my power chair and landed on the concrete. It took a long

time, speaking with the council, to get a new door put in. It helped when that was done, but that is only one point.

Jacq Kelly also talked about the cost of patients being in hospital and things like that. I could tell you about a few occasions when I have fallen in my home because I have not had the right grab rails or things like that to be able to balance and transfer from A to B—say, out of my chair to my couch. I cannot walk, obviously. At one point, I fell on the floor and I ended up spending 13 hours waiting for one of my family members to come and find me. I had no access to my mobile phone, or a phone of any kind, so I had to lie there and wait for someone to come and get me.

Eventually, I had to have a call button put in, but I ask you to think about the time that it takes for someone to respond. You have to wait for them to come and help you and, even if they come, they have to wait for an ambulance or people who are trained to lift you, which also costs money.

If you end up in hospital, it can have a knock-on effect: not only does it cost more money for rehabilitation and the hospital stay, depending on what injuries you get, but you feel helpless because you have to depend on other people, which takes away your independence. You feel trapped because you are not able to get up on your own whereas, if you had a house that was designed for your wheelchair in the first place, you could cut down on the costs.

My house is nice but it is not a wheelchair house. The authorities said that it was wheelchair friendly. It does not have the right equipment in it. I have only once been assessed by an occupational therapist.

That takes me on to my third point, which is about my bathroom. Let us imagine that there was a doorway behind you and you needed to go to the bathroom but could not shut the bathroom door because there was not enough room in the bathroom for you and your wheelchair. You could not shut the bathroom door when your friends were in. We would all sit here and you would have to go to the bathroom but not close the door. That is against human rights.

The house is just too small. The doorways are not designed for a wheelchair. No OTs have come to examine the bathroom with a view to adapting it because there is not enough space. It is not a wet room. A couple of grab rails were put in and that was it. I have never seen an OT since then.

It is a big point that I cannot go to the bathroom in privacy in my own home, which should be designed for a wheelchair user. I have a friend whose house is adapted for her chair and it is possible to go into her bathroom and close the door, whereas my house is not adapted. It is to do

with finances and money. The authorities do not have the money to adapt the house or make the changes that they need to, which cuts my quality of life. I have had to ask my friends to leave simply so that I can go to the bathroom, which I should not have to do.

**Jacq Kelly:** Stephan is talking about cost. The estimated cost of one hip fracture caused by somebody falling over is £28,000, which puts the £1,100 cost of adaptation into perspective.

Stephan has friends who are wheelchair users who will not come round to his house because they cannot go to the bathroom in their wheelchairs. Particularly when somebody's mobility is already restricted, it is simply unacceptable that they cannot have visitors to their house because the bathroom is not accessible.

The cost of putting in the grab rails would be much cheaper if the house had been built to lifetime standards and the doors been widened in the first place. There is a proposed change in the building regulations that will enable builders to make bathrooms smaller than they are currently required to, which means that, if a bathroom needs to be adapted in the future and turned into a wet room or a room big enough for a wheelchair to navigate around, it will be even harder to achieve.

I am sorry to have interrupted, Stephan.

11:00

**Stephan Thomson:** It is true that, when you are in a wheelchair, the hallways and doors in a house are not wide enough and you end up damaging your property because you bash into walls just trying to turn around. When you speak to the council about it, they just say, "We don't have any wheelchair-friendly houses that we can give you." There are just none available at the moment, so you just have to make do and I do not think that that is very fair. That goes back to the main point of the petition.

A person has a right to go to their bathroom without feeling embarrassed and to be able to have friends over without them feeling embarrassed about going to the bathroom. The only change that was made to my bathroom was that they put in two grab rails. That was it—they said that they could not do anything else. I am stuck in limbo because I do not know what else to do.

If people were given houses that were made for wheelchairs, as Jacq says, that could cut down on the cost of hospital stays, medication and everything else—it would have a knock-on effect on all those things. When someone is in a house that is not designed for their wheelchair, they can

also cause more injury to themselves trying to do things in ways that they should not because they have no alternative.

**The Convener:** I thank Jacq Kelly for her presentation and Stephan Thomson for highlighting some of his personal difficulties and experiences with his house. Do members have any questions?

**David Torrance:** Good morning. I fully support your petition. Should local authorities play a greater role when replacing existing council housing with accessible new builds? I will give you an example from Fife Council. When new council houses were built in Kirkcaldy recently, they were all designed to be disabled friendly. When local authorities build new council houses, should they ensure that accessible houses make up a bigger proportion of them?

**Jacq Kelly:** Definitely. We are finding that councils need to be compelled to do that, because they are not doing it.

There are two things to mention. First, we have found that a lot of local authorities do not even know how many accessible homes they have in their housing stock. Secondly, we were asked by an MSP—I think that it was Michael McMahon or Ken Macintosh—whether there is regional variation in the number of people who are waiting to get an accessible house and cannot get one, but we do not know, because local authorities do not know. They do not know how many accessible houses they have or how many people are waiting for accessible houses, which is a problem. Even finding out those two things, for a start, would be a big help. The Glasgow Centre for Inclusive Living started a register of accessible homes in Glasgow so that people would know where the accessible homes are, and it would be nice to see that replicated throughout the country.

Local authorities definitely need to be compelled, because they are not providing what we think is a very reasonable solution to the problem. People do not have to be disabled to live in a lifetime-standards home—anybody could live in one, and it could even work for families who have kids in buggies, who need to be able to get into the hallway with a buggy.

This is the most practical long-term solution, as it would allow people to stay in their homes. It is unacceptable that folk are having to go into residential care when they would prefer to stay in their own home but simply cannot.

**John Wilson:** Good morning. Ms Kelly, you mentioned accessible homes, but the definition of accessible can vary widely. Stephan Thomson gave a good example. His house would be classified as accessible because he can get his

wheelchair through the front door, although he cannot get it around the house.

How can we ensure that accessible homes are properly accessible? On Saturday, I visited a constituent who lives in a new-build council house. Like Stephan Thomson, my constituent has a problem in moving her wheelchair from the living room to the kitchen without scraping the bottom of the door leading into the kitchen. Although such houses were designed primarily for people with disability issues, the designers clearly had not thought about adding a couple of inches to the width of the doorways to allow a wheelchair to go through.

How can we get a clear definition of accessible? The Glasgow Centre for Inclusive Living has individuals who go round and check properties. Can we get a common standard for accessibility and include lifetime accessibility in that?

**Jacq Kelly:** In the campaign that we at Leonard Cheshire are running, we have spoken about disabled-friendly houses, which are different from accessible homes. Stephan Thomson's home would be considered to be disabled friendly but not accessible. If a property is going to be marketed as a properly accessible home, it must be designed in consultation with disabled people.

When we came into Edinburgh on the train yesterday, we discussed the point that not much mind is paid to the fact that not all disabled people are the same. Stephan has one kind of chair and his friend David has a much bigger one than him, so there is not a one-size-fits-all answer to accessibility. Even accessible toilets are often not accessible. I wonder whether people really consult disability organisations and disabled people on their needs and how best to meet them.

**John Wilson:** Have you had any discussions with house builders? In such debates, we usually end up talking about council or housing association provision but not getting into private provision. The petition is clear that at least 10 per cent of all new homes should be built to fully wheelchair-accessible standards, but what discussions have taken place with private house builders about that?

**Jacq Kelly:** We have had no such discussions yet, but we have pinpointed two private house builders that are building disabled-friendly homes out of choice because they see it as a great marketing point for the future. One in Glasgow and another in Fife have decided that it is a good selling point for people who want to stay in their homes if something happens to them and they become a bit less mobile.

It costs the house builders little to put in reinforced walls early, and they can market the properties as homes for the future. I know

somebody who recently bought a home particularly because the bathroom was designed so that, in the future, it could easily be transformed into a wet room.

You make a really good point. We are starting to look into whether we can talk to private contractors and talk about positive cases as well as the negative ones.

**Angus MacDonald:** The petition strikes me as one of the most commonsense petitions to have come before the committee since I joined it. I was interested to hear the comments about changes to building regulations that could result in even smaller bathrooms. I have visited some new-build properties recently and I find it hard to believe that bathrooms could be even smaller than those that are being built.

According to the building standards technical handbook, the Scottish Government has taken cognisance of housing for varying needs and the lifetime homes concept that the Joseph Rowntree Foundation developed. Can Jacq Kelly or Stephan Thomson give us any examples of good practice? I presume that Margaret Blackwood Housing Association has properties that you consider ideal, but are you aware of any other examples of good practice?

**Jacq Kelly:** We are not falling over those examples, to be honest with you.

On your point about the building standards, I was looking at the handbook this morning. It is 650 pages long, so I have not read the entire thing, but I read the section to which you refer. It includes some of the lifetime standards, but it focuses more on floor space than on having reinforced walls for grab rails. However, grab rails are one of the things that can make the biggest difference, particularly for older people. Not everyone ends up being a wheelchair user, but a lot of folk would benefit from a grab rail later in life. However, that is not possible, because grab rails are not included in the building regulations.

The floor space in a bathroom must be 3.6m<sup>2</sup>. Under the proposals, that would be reduced to 2.5m<sup>2</sup>, which seems tiny to me, never mind wheelchair users, who have to get into the bathroom, shut the door, turn around and do whatever. That seems impossible.

We are not tripping over good examples. If anyone has any, we would love to hear them, because we would love to promote good cases and encourage other housing associations to do the same thing.

**The Convener:** I see that there are no other questions from members. In that case, what action is the committee prepared to take?

**Kenny MacAskill:** We should write to the Government. As Angus MacDonald said, a lot of this is common sense. If action was taken to ensure that walls are capable of taking grab rails, that would not require every wall to be brick, concrete or whatever. The issues must be considered.

**David Torrance:** I agree. It was mentioned that two companies—one in Fife and one in Glasgow—are building disabled-friendly homes. We should write to them, as it would be interesting to hear their views. I know that Fife Council has built new disabled-friendly council housing, so we should also write to it to see what it is doing.

**Jacq Kelly:** Stephan Thomson wants to make a point about good practice that he knows about.

**Stephan Thomson:** A friend of mine has a house that is designed for wheelchairs. I have been into her home, which is an absolutely amazing house. All the kitchen units and worktops are lowered, the bathroom has more than enough space in it and she even has a piece of equipment in her cupboards that comes down like steps, so that she can reach things. In that way, she does not have to depend on other people getting things for her. She has her independence; she can do stuff by herself rather than having to depend on others.

Before the council gave my friend her house, it took her into the home to begin with and decided how to design the house around her from scratch. When I was given my house, I was told, "This is the only house we've got, so you can take it or you're stuck, because we've got nowhere else for you to stay." That would have put pressure on family members.

My friend has visited my home. She cannot understand how the council has managed to say that the house is suitable for wheelchairs, and her wheelchair is smaller than mine. She thinks that it is appalling that the council can say that my house is suitable for wheelchairs. As I said, her house was designed for her from the beginning.

Councils should look at housing from the view of the disabled. They should have the wheelchair user go in first and then have talks with OTs. They should start from scratch when building the housing. That will be cheaper in the long run, rather than making adaptations once a person is in the home.

**David Torrance:** Could we write to all the local authorities to see what percentage of new-build housing is disabled friendly?

**The Convener:** Yes. Before we return to the action points, I have a question for Jacq Kelly. What is the least disabled-friendly housing? Is it



new builds or old housing, or are they both the same?

11:15

**Jacq Kelly:** They are probably both still the same, although that might depend on where people are. I imagine that, in an old city such as Edinburgh, the old builds are pretty inaccessible. I find that to be the case when I am visiting friends.

I have seen no evidence of a huge increase in the number of accessible new builds. I know of a woman in Edinburgh who is registered homeless. She is a wheelchair user and she is having to be put into an inaccessible home temporarily because no accessible home is being built for her. I do not have any data to hand, but I am not getting any impression that there will be a massive improvement with the coming new builds.

**The Convener:** Colleagues, do we agree to write to the Scottish Government, Local Authority Building Standards Scotland, the Lifetime Homes foundation and the Convention of Scottish Local Authorities to seek their views?

**John Wilson:** I suggest that we also write to Homes for Scotland, as the trade body for house builders, and to the Scottish Federation of Housing Associations, as the body that incorporates the majority of housing associations and co-ops, to ask for their views on the petition. Unfortunately, the landlords that are asked to make the greatest provision are in the social rented sector. It would be useful to get their views, too. As the trade body, Homes for Scotland must be asked what its members are doing to address the accessible housing issue.

**The Convener:** I have just been advised that, if we write to all the local authorities, there will be no requirement to write to COSLA. Do colleagues agree to take the approach outlined?

**Members** *indicated agreement.*

**The Convener:** I thank Jacq Kelly and Stephan Thomson for attending.

*Meeting closed at 11:16.*



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

---

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

All documents are available on  
the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

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

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

e-format first available  
ISBN 978-1-78568-333-6

Revised e-format available  
ISBN 978-1-78568-350-3