



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 22 September 2015

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PUBLIC PETITIONS COMMITTEE
15th Meeting 2015, Session 4

CONVENER

*Michael McMahon (Uddingston and Bellshill) (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:

John Beattie

Parveen Haq

Alan Lee

Kevin Magee (Govan Development Trust)

Gil Paterson (Clydebank and Milngavie) (SNP)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Public Petitions Committee

Tuesday 22 September 2015

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

Interests

The Deputy Convener (David Torrance): Good morning and welcome to the 15th meeting in 2015 of the Public Petitions Committee. I remind all those present, including members, that mobile phones and BlackBerrys should be turned off completely, as they interfere with the sound system even when they are switched to silent. Apologies have been received from Hanzala Malik.

I welcome Michael McMahon, who replaces John Pentland as a member of the committee.

Agenda item 1 is a declaration of interests. In accordance with section 3 of the code of conduct, I invite Michael McMahon to declare any interests that are relevant to the committee's remit. Any declaration should be brief but sufficiently detailed to make clear to any listener the nature of the interest.

Michael McMahon (Uddingston and Bellshill) (Lab): Other than what is in my declaration in the register of members' interests, I do not believe that there is anything that I require to state. As trade union issues tend to come up quite a lot in the committee, it might be worth mentioning that I am a member of the GMB trade union. There is nothing else.

Convener

10:01

The Deputy Convener: The second item on the agenda is the election of a convener. I put on record my thanks to John Pentland for his work on behalf of the committee.

The Parliament has agreed that only members of the Scottish Labour Party are eligible for nomination as convener of the committee. That being the case, I seek nominations for the position of convener.

John Wilson (Central Scotland) (Ind): I nominate Michael McMahon.

Michael McMahon was chosen as convener.

The Deputy Convener: Congratulations, Michael. I suspend the meeting for a minute, while we change places.

10:01

Meeting suspended.

10:02

On resuming—

The Convener (Michael McMahon): I thank David Torrance and other members for allowing me again to become the convener of the Public Petitions Committee. It is a position that I have held in the past, and I know how important the committee is. I certainly look forward to re-engaging with the petitions system, which is one of the most important aspects of the Scottish Parliament. I certainly valued and appreciated it when I was a member of the committee previously.

I thank David Torrance for holding the fort during the transition from the previous convener to me. I know that the clerks worked closely with him on all the areas that required to be addressed and that he took the committee for a few weeks while the convenership was in abeyance.

I also thank the previous convener, John Pentland, for steering the committee over the past while.

New Petitions

Child Contact (Parental Rights) (PE1570)

10:03

The Convener: Agenda item 3 is consideration of new petitions, the first of which is PE1570, by Alan Lee, on parental rights to child contact. Members have a note on the petition from the clerk, which is paper 2, and a Scottish Parliament information centre briefing. I welcome the petitioner, Alan Lee, and invite him to make a short opening statement of around five minutes to explain what the petition seeks to achieve. After that, we will move to questions. Over to you, Mr Lee.

Alan Lee: Thank you very much for inviting me to speak. The issue is close to my heart, as I have two children—a son who is six years old and a daughter who is three years old. They are my life; hence why I am before you this morning. I have been refused contact with my children for reasons that I do not understand, as I am not an alcoholic or a drug addict. I am unemployed for health reasons, but that does not make me a bad father. I have not seen my children for more than a year, and there is an on-going legal battle that I find difficult and frustrating. Legal aid is especially frustrating, as it takes an extremely long time to process applications in relation to child contact.

Children need a routine, consistency, security, love, nurture, guidance, protection, care and many other things. They also need both parents. When a legal battle is on-going, the absent parent is not there to provide all that to the child. I would understand if contact had been terminated for a reason—for example, if I was a drug addict or an alcoholic. However, that is not the case. Even if I had one of those issues, the proper route and legal channels should have been gone through to prevent me from seeing my children.

The legal aid process is a big issue that causes a long period when there is no contact. As I said, when contact is terminated, the non-resident parent has to go through an extremely long process. They have to find a solicitor, who will write to the resident parent to ask for the contact to be reinstated. The resident parent can, in a way, postpone a lot of the legal process by not responding to letters. Then, obviously, there has to be an application to the Scottish Legal Aid Board for assistance. The non-resident parent's solicitor will have to write to the Legal Aid Board with a statement from a neighbour or family member in support of the application. The application takes between four and six weeks. While that is on-going, letters are being passed back and forth

between the non-resident parent and the resident parent.

As I said, it takes an extremely long time even before a writ is issued, once legal aid has been granted by the board, and then a child welfare hearing is allocated by the sheriff court. Again, it is frustrating for the non-resident parent to have to sit and wait for the process to happen. Obviously, in that time, the bond between the non-resident parent and the child will be severely affected. In my experience, it is also a waste of public funds. Applying for legal aid is an on-going process that is not in the child's best interests.

I gave the committee an article—"After parents divorce, regular overnight stays with dad are best for most young children"—by Professor Richard Warshak, who is a clinical professor of psychiatry at the University of Texas. I emailed the article, which has been endorsed by 110 mental health experts from 15 countries, to the clerk late last week, and I hope that the committee will have the opportunity to read it.

As well as that interesting article, I would like to point out a few articles from the United Nations Convention on the Rights of the Child. I am sure that the committee will know about them. Article 9 states that children have the right not to be separated from their parents against their will, except where that is necessary to protect their best interests. To my mind, that article is breached the minute a resident parent stops contact without the intervention of a court, because who is to say that the resident parent's decision to terminate contact is in the child's best interests?

Article 18 of the convention makes it clear that

"both parents have common responsibilities for the upbringing and development of the child."

I believe that that article is also being breached, along with article 19, which states that children should be protected from

"all forms of physical or mental violence".

If a resident parent terminates contact, how can the non-resident parent meet their responsibilities as a parent to assist with the child's upbringing and development? Also, it will mentally scar the child not to have regular contact with the non-resident parent. That will have a significant and long-term effect on the child.

The petition asks for the Scottish Legal Aid Board to prioritise the processing of applications relating to child contact so that legal aid can be granted, and a child welfare hearing can be allocated on application to the court, fairly quickly. Where there are concerns, social work services can intervene and possibly supervise contact and assess those concerns.

We must remember that contact can be terminated only in the child's best interests and not because there is bitterness between the parents. I find that normally there is such bitterness. The children's panel always discusses contact. I am not 100 per cent sure whether the children's panel can facilitate the contact issue. Maybe the committee can think about whether that is possible.

To my mind, children's welfare is paramount. It will help their long-term development to have regular contact with both parents, rather than having big gaps in contact, which will be detrimental to them mentally and to their welfare and development. I understand that there have been previous petitions on issues to do with enforcing contact and on the rights of unmarried fathers. However, my petition is based on the termination of contact and asks whether we can change the process to have quicker access to legal aid and quicker allocation of child welfare hearings.

I have been quite lucky because my contact with my son was recently reinstated by the sheriff court. There was an order in place but that does not mean that the resident parent cannot stop that contact. I am sure that the committee has discussed that in relation to previous petitions.

Since April this year, contact with my daughter has been an on-going legal battle. To date, the Scottish Legal Aid Board has not granted my application.

I do not know what else to say to the committee except that, as a father, the difficulty and frustration of the process can be killing. I have not seen my daughter since April this year. Given the time that the legal process takes to run its course, I probably will not see her until April next year. That is a year of her life during which I have been unable to assist with her upbringing and development.

I will continue to fight on, whether or not the committee takes any action on the petition. I do not want to be forced, as a last resort, to have to climb the Scottish Parliament building in a Batman suit, if you know what I mean.

The Convener: Thank you, Mr Lee. Has your lawyer raised concerns about the length of time that it has taken to process your legal aid application?

Alan Lee: Yes. There is regular contact with SLAB. At the beginning, I think that a statement from a neighbour was missing. We had to submit that statement and then it came back. The process just takes a really long time. I find it quite frustrating.

The Convener: From what you have said, it appears that the court has made at least one decision in your favour in relation to your son. Obviously, there is an on-going process in relation to your daughter. Is there anything in the court process that has caused unnecessary delay? Is there anything that has added to your frustration about the length of time that the process is taking?

Alan Lee: I do not think that it is the courts—I know that the court will take time to allocate a child welfare hearing. However, a writ cannot be submitted by my solicitor to the resident parent without legal aid being granted. That is where the delay is at the moment.

Kenny MacAskill (Edinburgh Eastern) (SNP): The information from America that you mentioned indicates that, in a normal scenario, retaining contact is in the child's best interests—I understand that. In Scotland, the law is predicated on what is in the child's best interests. Do you accept that there may be times when contact is not in the child's best interests? Is that not a reason for maintaining the position that the courts should do what is in the child's best interests and not what is in the best interests of whichever parent does not have contact?

Alan Lee: I accept that, but in my case I do not find that the law is helping me. I provide care and everything for my children. I had overnight contact with my daughter, which stopped for no specific reason.

Kenny MacAskill: Do you accept that the court has to put itself in the child's mind when it considers what is in that child's best interests and that the outcome should not simply be based on what the mother or father says? Do you accept that the law should continue to be based on what is in the child's best interests?

Alan Lee: As I say, I accept that but, looking at it from my perspective, I do not know what the reason is for my children not seeing me. I understand what you are saying about the court. In my case, if it was in my children's best interests not to have contact, I would agree with the court. However, I do not agree with how things are going at the moment. I do not get to see my children because that is what my ex-partner believes is in their best interests.

10:15

Kenny MacAskill: I appreciate that legal aid can be slow, although there are special urgency provisions. Grant of legal aid is based on probable cause. SLAB has to consider whether there is probable cause or whether there might be a good reason why the application should not be supported. There will therefore be some

bureaucratic delay as people check the basis of the application.

Alan Lee: I understand that, too. Some applications are processed quite quickly. I was issued with an interdict in relation to my daughter because, as I say, my ex-partner thought that, for whatever reason, that was the right route to go down. I was prevented from going to the nursery to pick up my daughter. That was granted quickly. Obviously, there was an urgency issue there. However, in my case—a father who wants contact with his children—SLAB does not see it as urgent to process my application quickly. There is a timescale of four to eight weeks. I understand that and I am happy to wait four to six weeks, but we have run well over that since April.

John Wilson: Thank you for your evidence, Mr Lee. I will take a slightly different angle from that taken by Mr MacAskill. In your submission, you mention the court orders that have been granted, giving access to an absent parent. However, a resident parent can ignore an order and withdraw contact completely. What is your experience in that regard?

Alan Lee: Thank you for that interesting question. There is no reasonable excuse for that. A court order is in place but my ex-partner will still stop contact any time that she wishes to. I have to wait to go back to court to reinstate contact. That is what happened in February, when my ex-partner stopped me contacting my son. I had contact with him again only a couple of weeks ago.

Most of the time, the resident parent—I hate referring to mothers, because I do not want to penalise them—just ignores any order that is in place. One time when I went to the house to pick up my son, my ex-partner said that I was not going to get him. When I asked why, given that the order was in place, she replied, “Because I say so.” I cannot do anything about that. Even if I phoned the police they would say that it was a civil matter and that I would need to see a lawyer. Lawyers are not on hand 24/7—they are not waiting for me to come to see them. I have to make an appointment, which can take a couple of weeks. The lawyer then needs to apply for legal aid, if legal aid has ended. Again, that takes time.

John Wilson: I accept Mr MacAskill’s argument that the courts should be able to decide what is in the child’s best interests. However, I also believe that if courts grant access orders, they should uphold those access orders and ensure that the resident parent grants the other parent the rights that have been agreed through the court system.

The committee might need to look at the wider issues. Although there are issues about the legal aid application procedure and the act of going

through the courts to get access, we perhaps also need to look at the issue of the enforcement of court orders that have already been granted. If such court orders were enforced, you might not find yourself in this situation in future.

Alan Lee: Yes. I totally agree with that. That would be extremely helpful. As I said, an order is in place. We should expect that, whoever the court grants an order to, it will be upheld rather than ignored, but I find that, in most cases, the resident parent ignores the court order. There are a few cases where courts have enforced the order, but there are not enough. I think that resident parents see that and think, “The order is in place, but I can still do whatever I fancy.”

John Wilson: Thank you.

Kenny MacAskill: In my experience, there are instances when the non-resident parent is treated badly, but I also have great sympathy for sheriffs in relation to the scenario that Mr Wilson discussed. If a sheriff says, “I have given a contact order and you must obtemper it,” but the parent with residency says no, the sheriff is faced with two options. One is to switch the residency from the mother to the father or vice versa, which they might already have decided would be inappropriate, and the other is to jail the person. In that case, where do we put the child?

What should a sheriff do in that situation? Should they switch the order or jail the person—or is there a third way? In my more than 20 years as a lawyer and 16 years in the Parliament, I have never been able to discover a third way, which is why I have a great deal of sympathy with not only the parent, whom I feel heart sorry for, but the sheriff, because I am always bamboozled as to what we expect them to do. What are your views?

Alan Lee: That is quite a difficult one, Mr MacAskill. You are more of a professional than I am on the subject, but I do not think that jailing the parent is the solution, because the child needs both parents. Some other punishment such as community service—say, time spent in a local charity shop or something—would probably be more beneficial than a custodial sentence. It would be harsh to jail a parent when there is a young child at hand who needs to be cared for, especially if there are concerns for the non-resident parent. The child might have been neglected, and that might be why the best interests of the child were not being served and the contact was terminated. I feel for sheriffs in that sense, but I am looking at the whole picture with regard to the best interests of the child, not the best interests of the parents or the sheriff who is going to grant the order to whoever is suitable.

Kenny MacAskill: I am interested in the best interests of the child. In my experience, we can

say to somebody, “You can get a court order, and unless you have a good relationship with your ex-partner, that will become the maximum.” However, a time will come when the child is nine, 10 or 13 and they will say, “I’m supposed to come to you on Saturday, but there’s a party” or they will be playing football. What does the person do? Do they say, “No, you’re coming to me”? They could be in a separate town, and the child will not get to go to the party or play football. The best thing is to have a good relationship, but at what age do you think the child’s rights become paramount and they should be able to say, “I don’t want to come this weekend”—or even at all?

Alan Lee: It depends on the child and how mature they are becoming. I would not force my children to come to me if they did not want to do that, but there are times when they want to come and I cannot take them because the court order states one night a week. I have to say, “You can’t stay the extra night.”

Even when a court order is in place, parents need to be flexible and work together on what is in the child’s best interests. My contact with my son, which was reinstated two weeks ago, is on a Sunday between 10 am and 2 pm. One Sunday, he was going to a christening party with his mum, and I was quite happy to change the time to Monday after school so that I could still see him for a few hours. He was happy, I was happy—we were all happy. That is important.

As I have said, even if a court order is in place, it is important for the parents to be flexible with regard to the child’s best interests. If the child is not well, we cannot force them and say that they still need to go and see dad or mum. That is not workable.

The Convener: I think that John Wilson’s comments are pertinent. We would all wish that every sheriff had the wisdom of Solomon when it comes to the difficult scenarios that Kenny MacAskill has laid out. They will always be difficult for the court, but I have always been sympathetic to the view that, where a court order has been made, people should not be able to reject it with impunity. The court must have some redress if it makes an order and someone decides that they are not going to comply with it.

A number of issues have come up in Mr Lee’s comments about the duration of the bureaucratic process of allocation and the imposition of a court order. Do colleagues have suggestions on how we should take the issues forward?

Kenny MacAskill: We should write to the Scottish Legal Aid Board. Mr Lee makes a fair point about bureaucratic delay, although some of that goes with the process. For 16 years, I had to fill in paper application forms, but now that the

process has gone online, I hope that it has been truncated.

It would be worth writing to the Scottish Legal Aid Board and asking it about the current timescales and its proposals for trying to speed things up. I appreciate that the applicant’s statement and the supporting evidence have to go before members of the board for clarification if the case is not simply dealt with on the basis of probable cause by the staff at the board, but it would be helpful to get an idea of the timescales and how the board believes they can be further truncated.

The Convener: Are there any other suggestions about whom we should contact?

Kenny MacAskill: We cannot go directly to the Law Society of Scotland, but it might be worth asking the Family Law Association, which tends to be the specialist in such matters and will have experience on both sides.

The Convener: I wonder whom it would be best to contact about the enforcement of court orders. Should we seek a view from the Scottish Courts and Tribunals Service?

Kenny MacAskill: We could go to the Lord President, now that he chairs the Scottish Courts and Tribunals Service board.

You are quite right, convener—a court order should be obtempered. Otherwise, it brings the court into disrepute. Equally, my experience is that, in a lot of these cases, we tend to run into mental health issues, which then raise challenges. I think that it would be appropriate to ask the person at the very top.

The Convener: I think so.

As members have no other suggestions, I say to Mr Lee that we will contact the organisations that we have mentioned and get back to you with the responses. We will then see how we can take the petition forward.

Alan Lee: Thank you for giving me the opportunity to speak to the committee this morning.

The Convener: I suspend the meeting for a couple of minutes to allow us to change witnesses.

10:28

Meeting suspended.

10:29

*On resuming—***Food Banks (Funding) (PE1571)**

The Convener: Our second petition this morning is PE1571, by John Beattie, on food bank funding. Again, members have a note by the clerk on the petition—paper 3—and the SPICe briefing.

I welcome the petitioner, John Beattie, who is accompanied by Kevin Magee from the Govan Development Trust. I invite Mr Beattie to make a short opening statement to explain the petition, following which we will ask questions on the issues that he raises. Over to you, Mr Beattie.

John Beattie: Good morning. I thank the committee for considering our petition.

I am a volunteer in my local area of Govan, in Glasgow. Since about February, there has been a developing crisis of food shortages in our local food bank, Glasgow South West Foodbank. It has become a recurring theme. Kevin Magee and I volunteer at Sunny Govan community radio, and the food bank was continually asking us to put out emergency appeals on radio for supplies, because it kept running low on stock. That situation inspired Kevin and me to start doing food collections in our local area. We also collected a lot of statistics and information on food banks in order to raise awareness of the issue in our local area. From there, we decided to start this petition.

As a former student of politics who studied Scottish politics, I was aware of the Scottish Parliament's petitions process. I thought that if we started a petition, we could get it to this stage in the Parliament. I am delighted that we have got here and that the petition can be considered.

The reason for the petition is that we feel that we are getting to the stage with food banks whereby communities are now struggling to meet the demand. Lots of research has shown that food bank statistics are exploding, particularly in the past year, so the petition asks whether we can get some help from the Government to help meet that growing demand. That probably sums it up; it is as simple as that. I would welcome any questions.

The Convener: Thank you. I will kick off the questions. Until recently, I was convener of the Welfare Reform Committee, which looked extensively at the issue of food banks. Last year, it undertook an inquiry on the subject, in which we heard harrowing stories about the usage of food banks and the types of people who are affected by

the sanctions regime, among other things, and driven to require the use of a food bank.

I was struck by the breadth of concern that was expressed by those involved in the food bank sector and those involved in charities and support groups on poverty about the possibility of food banks becoming institutionalised in this country. They felt that there was a real danger that the more support food banks get from the Government, the more they become part of the welfare system. That concern was expressed repeatedly throughout our inquiry and Canada, where the food bank system is part of the welfare system, was given as an example of what could happen. We heard real concerns that we could end up copying that model if we increased the amount of central funding for food banks. How do you respond to such concerns?

John Beattie: I appreciate that point, which is a response that I anticipated. The thing is, though, that the present situation is bordering on being a humanitarian issue. I personally feel that that is true, because I see on the ground how it is affecting peoples' lives.

As for the concern about the Government starting to have direct involvement in food banks, what is the alternative if it does not? What happens if we get to a stage when food banks are struggling to get food from local communities? More than 90 per cent of donations to our local food bank come from the local community, but many members of the community are themselves living on the breadline. What happens when we get to a stage when donations to the ever-growing number of food banks start to diminish?

We know that, because of the ideological attacks on welfare coming from Westminster, the situation is only going to get worse over the next five years. All I ask is: what is the alternative if the Scottish Government cannot at least set up the emergency food fund again?

David Torrance (Kirkcaldy) (SNP): Good morning. The Scottish Government already allocates £1 million to this issue, half of which goes to food banks, unlike the United Kingdom Government, which is not funding food banks at all. In times of austerity, do you think that it is right that Government should keep giving that money? Some food banks are really good at collecting food. The one in my area, Kirkcaldy Foodbank, has trolleys in all the supermarkets that are continually filled by shoppers.

John Beattie: That is a good question. Organisations are set up that get donations from supermarkets and so on. The same thing that you describe happens in our area, too: the bigger chains, such as Sainsbury's, donate to our Glasgow South West Foodbank. However, even

so, we still have emergency appeals every two or three weeks. All the independent food banks are in the same situation.

You mentioned the £1 million that the Government has given to food banks. That is an interesting issue. In response to a letter that I sent to the First Minister, I got a response that said that £1 million had been given to food banks. I asked people in a lot of food banks in our local area and more widely and they said that it was not £1 million. I then spoke to a Scottish Government minister, who told me that it was actually £500,000. When I again went back to the food banks, they challenged even that claim. I would therefore query what you have said about that £1 million. Where did it go? A lot of people who are involved in food banks asked me that.

David Torrance: Evidence that was given to the Welfare Reform Committee suggests that people want food banks to be community led and community run. How involved is the community—scout groups, local organisations and so on—in the food bank that you help with?

John Beattie: Yesterday, I was contacted by journalists who were interested in me coming to the committee today. They were under the impression that I am a volunteer at the food bank. I am not, and neither is Kevin Magee. We are just community volunteers who felt a social responsibility to do something to help the struggling members of our community.

Our food bank operates in four areas. It gets stuff from sources such as the Glasgow football clubs, who run donation days on which people bring along bags of food. On 12 September, Sunny Govan community radio, in partnership with a well-known dance DJ, organised a big event in Glasgow city centre that featured renowned DJs, and entry was open to people who brought along a bag of food. Lots of things are going on to raise donations of food, but how sustainable is that in an environment in which people are struggling? As I said, 90 per cent of the donations come from ordinary people.

We should get an emergency food fund in place, because I can tell you that there will come a crisis point. I know that the Scottish Parliament is getting a lot of new powers as a result of the Scotland Act 2012. Why do you guys not set up a commission or something to consider how we can sustain this system? As I said, we are going to be in this situation for the next five years. We do not have control of welfare in Scotland, so we have to look at the issue as a long-term problem, because that is what it is. We must set up some sort of emergency food fund in the short term, while getting people's heads together to think of a way of dealing with the issue in the long term.

John Wilson: Good morning, Mr Beattie. I would like you to answer a couple of questions. A number of food banks on the south side of Glasgow are, in effect, competing with one another to raise donations and provide food to people who have been referred to them. Could there be greater co-ordination between food banks, to target provision? At the moment, people are confused about which food bank receives the food that they donate. In my area, one of the national organisations collected food in supermarkets, but none of it was supplied to the local food bank, which caused concern among some residents. They believed that they were making donations for local people, but the food was being supplied elsewhere.

John Beattie: That is another good question. As Kevin Magee and I have been through the process, we have learned a lot about different food banks and food bank groups.

The Trussell Trust uses a ticketing system, whereby a person goes to a professional, such as a doctor, who will give them a ticket to access a three-day emergency food supply. Other independent food banks do not have such requirements.

Some people who got a food bank ticket and went to a Trussell Trust food bank might not have liked the experience, so they might now be going to an independent food bank. Through statistics that food banks have sent us, we have seen that people are walking from Castlemilk to Maryhill to access food, because they might have used their three tickets. The Trussell Trust has a three-strikes system: someone can have only three tickets in a certain period. People then have to navigate their way through little independent food banks and groups that people have set up. Greater co-ordination is needed.

Kevin Magee and I had a public meeting at the Pearce Institute in Govan, at which we had people from Maryhill and Milton in Glasgow, which are a good distance from Govan. All those different groups came to the meeting, and we quickly learned that we need greater co-ordination.

We need a professional head to manage that co-ordination. That would lead to better results. There seems to be a wee issue with who feeds who in what area. I appreciate that greater co-ordination is needed, but while all this is happening, people are going hungry in our communities.

John Wilson: I have some sympathy with the petition. One of the main issues is the concern about whether people can continue to donate food to provide for other members of their community. In some of the smaller communities, in particular the areas in Glasgow that you mentioned,

involvement and the level of giving is good but, as time goes on, people's ability to donate will reduce. As you said in your submission, the level of donations falls off and the food bank ends up with fewer and fewer donations, and therefore less food to give out.

We need to get the issue out there and have a comprehensive review of what is being done within the movement to ensure that the people who urgently require food parcels are provided with them.

I will throw out another option. You mentioned some of the organisations that can make referrals to food banks. General practitioners, the Department for Work and Pensions, citizens advice bureaux and others can make referrals to the food bank in my area. What would you say if the Government, rather than giving money to food banks to buy food, gave vouchers to the people concerned? I am not advocating that option; I am just asking what your reaction would be if the Government gave out food vouchers.

10:45

John Beattie: That is difficult. Having studied social policy, I know that there can be a notion in society that people are deserving or undeserving. A stigma might become associated with using food vouchers. I will give the committee an example. One of the people whom Kevin Magee and I came across was a vulnerable elderly person. Sadly, due to circumstances, their children had passed away through the use of drugs and alcohol, so the elderly person was left to bring up their grandkids. The grandchildren asked their grandparent if they could take a certain route to the food bank, because they did not want their friends to see their grandparent go into the food bank to get food.

I can only imagine that that would be worse in local communities, where everybody knows everybody, if somebody paid for food at the till with vouchers that basically say, "I am claiming food." We have seen that in America, where a trial of such a system showed that there is a big stigma attached to the use of food vouchers. It is a very difficult issue. A lot of thought would need to be given to the introduction of such a system, because there is a danger that stigma would arise from it and the issue is how we would deal with that.

John Wilson: Sorry, convener, but I have one final question. Another issue that has been raised is the administration costs of food banks and whether the money—be it Government money or financial donations to food banks from local organisations, businesses and individuals—should be used to purchase food or to pay for

administration costs and the rental costs of the premises from which they operate.

John Beattie: That is another great point. We have had many discussions about the issue and find it difficult when we think about that in depth, because it means that people are getting wages and jobs are being created out of food poverty. That raises a lot of ethical issues.

Kevin Magee (Govan Development Trust): A lot of food banks are run by volunteers. Only a certain number of food banks pay for premises and have high overheads and high running costs. For example, a food bank in Milton is run from somebody's house, so there are no overheads. Those types of things are springing up. At public meetings, we have heard about independent food banks that are run from people's own houses. People want to do something, because they can see the effect that the cuts are having on their community.

John Beattie: Yesterday, the Child Poverty Action Group, the Trussell Trust and Oxfam released a massive UK-wide report called "Emergency Use Only". We have had a quick glance through it and it indicates that 30,000 volunteers are involved in food banks, so a huge number of those involved are volunteers. We also came across an article by Flora Douglas and her colleagues at the University of Aberdeen in the journal *Public Health*. She says that there was one manager in the food bank that she encountered and that the rest of the people involved were volunteers, so it is not that 10 or 15 people were getting a wage. One person was co-ordinating—I imagine from a professional standpoint—how the food bank was organised and run.

The Convener: I will follow up on a point that John Wilson made. We already have a system that allows for the use of food vouchers. The Scottish welfare fund is a £33 million fund that was set up by the Scottish Government to cover a host of things including people who are in emergency situations. One aspect of the fund is that, if someone needs food quickly, they can be given a voucher for the local supermarket. However, the issue of stigma arises in such a case—we have heard horrific stories about how checkout operators treat people who arrive at the supermarket with the vouchers. That system is already in place and it is Government funded, but you are looking for Government funding not to do something like that.

There is also the issue—I have heard it called the three-strikes rule—of people who make three visits to a food bank. A good argument was put to the Welfare Reform Committee when it considered that issue. If someone goes repeatedly to a food bank, there may be an underlying issue, and if they are not being sent there by a health

professional, a GP or social services, that underlying issue could be missed. Having a system whereby people can keep a record of those who visit a food bank and how frequently they visit may, in the longer term, help to paint a picture that allows someone to be supported and helped in a way that they may not have been previously.

Do you take on board the idea that some of the ways in which food banks operate have come about through practice and knowledge of the situation, and that food banks are seeking to assist people in a wider context rather than just handing out food when someone arrives at their door?

John Beattie: Yes, absolutely. We know that there is not one simple factor behind food bank use. For example, someone may use a food bank three times in three months. If they have a benefit sanction that lasts for 12 weeks and they go to a Trussell Trust food bank and get a three-day supply, what are they going to do for the rest of the time?

Kevin Magee: A lot of the measures were put in place prior to the astronomical rise in food bank use, over the past year, and food banks have to cope with what is happening just now. We need new measures to be put in place.

John Beattie: You mentioned the welfare fund, convener. Do people have sufficient knowledge of how to access the fund? Why has there been a 398 per cent increase in food bank usage in Scotland, as the BBC reported on 16 January? That report showed an absolutely massive increase in the use of food banks. Is the welfare fund working properly?

The Convener: The Scottish welfare fund was not set up to address the issue of food bank use. However, the question has been raised, and I made the point that there is an aspect of the fund that allows food vouchers to be used. That system is already in place. The Scottish welfare fund also delivers white goods to people and provides furniture and all sorts of emergency assistance. It is not about food banks.

John Beattie: You mentioned that the welfare fund gives out food vouchers.

The Convener: Under the guidelines, local authorities are permitted to use food vouchers as a way of assisting people through the Scottish welfare fund. That is the point that I was making.

John Beattie: Sorry—I interpreted your comment as saying, “The welfare fund gives people food vouchers, so why should we give more money to food banks?” I was asking why, if the fund is giving out food vouchers and people know that they can get food vouchers through it,

there has been such an increase—it can only be called a drastic increase—in food bank use.

Jackson Carlaw (West Scotland) (Con): I have a practical question on the detail of the petition. You recommend one of two things: the use of the underspend of £145 million or the use by the Scottish Government—I presume in due course—of the powers of the Parliament to raise £256 million through tax. There is a big distinction if such a concentrated amount of public money is brought into the equation. How do you see that funding being administered? What would constitute the definition of a food bank that would be able to make a claim? Is that how you see the process operating?

John Beattie: Yes.

Jackson Carlaw: What kind of structure do you imagine would underpin that? Once public money was directed in that way, there would be considerable concern to ensure that it was being used appropriately and in a way that the public felt was meeting the need and not going beyond that.

John Beattie: Absolutely—you make a great point. However, I am led to believe that the initial emergency food fund has run out of money. I stress that the problem is long term—we will see such things happening at least until the next general election, in 2020, given the Government that we have at Westminster.

As for how the funding would be administered, maybe we would have to look at setting up a special group to deal with the food poverty issue. It would be of benefit to the Scottish Parliament if the situation was reviewed every so often. The emergency food fund that was set up last year has now run out of money and has not been topped up, so the problem will just come back again. We need to review the situation every so often, to see how the system is operating and what the criteria are when people apply for food banks or for funding for emergency situations. We need to review it to see how it is working and where improvements can be made.

There are a lot of discussions about more powers coming from Westminster. If the Parliament set up some sort of group to look at the system and review it every so often, surely, you could take the research and evidence from those reviews to Westminster and say, “Your policy on this does not work in Scotland.” It creates an argument for devolving the power if the Westminster policy does not work in Scotland.

Jackson Carlaw: The Trussell Trust runs a lot of food banks, but there is no legal definition of a food bank. Any organisation can set one up. If a significant sum of money was available and people could apply to that fund, as you envisage,

how would you seek to ensure that the money was appropriately directed?

John Beattie: Surely one of the requirements would be that a group would have to register as a charity, because then it would have to make all sorts of commitments and follow the protocols.

Jackson Carlaw: I am still not clear who would administer all this.

John Beattie: That is why I suggested that the Scottish Parliament could set up a group that would deal specifically with the issue. It is going to be a long-term issue in Scotland—there is no doubt about that—because there will not be any reversal of the welfare reforms that are coming from Westminster. One can assume only that the current situation will continue, if it does not become worse.

The Convener: Do colleagues have suggestions as to how we should take forward the petition?

John Beattie: Convener, can I come in?

The Convener: Yes.

John Beattie: As I said, the petition was set up to get us here to discuss and raise the issue, and I am delighted that we are here, discussing it. I can see that committee members have concerns. The least that we can hope for is to get the emergency food fund topped up again so that people can apply to it.

We spoke to various food banks and they gave us suggestions in relation to the emergency food fund. I will mention some of the things that they asked me to put to the committee. All the food banks that I spoke to said that they would welcome a reopening of the emergency food fund, as that would guarantee a fair and transparent decision-making process. They said that they would welcome an emergency food fund that did not have current food bank providers sitting on its decision-making board. I do not know whether there was an issue with that previously, but that is an issue that came back to us. The food banks said that they would welcome a decision-making process that considered the impact on existing services and any future decisions that they make.

The food banks would also welcome an application process that involved decision makers visiting applicants to see at first hand how an organisation worked. That maybe touches on Mr Carlaw's point. Organisations that applied to the fund would commit themselves to being open for a visit so that decision makers could see exactly how they were operated and run.

The Convener: We could ask the Scottish Government to respond to the points that have

been made. I am open to other suggestions from members.

Jackson Carlaw: I respect the point that Mr Beattie has just made, but it is not actually in the petition that is before us. The petition that is before us is specific, and it is the petition that the committee has to take forward.

The Convener: I accept that, but, in writing to the Scottish Government, we could ask it to comment on the points that Mr Beattie has made.

John Beattie: Surely we do not have to be so rigid. Surely, there can be a degree of flexibility. That is why we are here discussing the issue, is it not?

11:00

The Convener: Mr Beattie, let us decide what we can do to take the petition forward. That is the question that I am asking members. I suggest that we write to the Scottish Government, asking it to respond to your comments and questions about the emergency food fund.

Do colleagues have additional suggestions?

Jackson Carlaw: I assume that that would be in conjunction with questions on the rest of the petition, convener.

The Convener: Of course—we would not write only on that; we would seek the Scottish Government's responses on all the aspects of the petition. It would be a good starting point to get the Scottish Government's responses to all the points that Mr Beattie has made and to the content of the petition. We might also wish to contact those who are already working in the field.

David Torrance: Could we contact the Trussell Trust again, to see whether its views have changed since it gave evidence to the committee?

The Convener: I am happy for that to happen.

John Wilson: It is right to contact the organisations that have been named so far, but it might be useful if we also contacted a number of independent food bank operators. It is useful to get the views of the Trussell Trust, but it does not represent the food bank movement. Some of the issues that the petitioner has raised highlight the difficulties that some smaller—what we might call independent—food banks face in their communities.

In addition, I suggest that we write to the Convention of Scottish Local Authorities or a selection of local authorities, asking what support local authorities provide to food banks in their areas. I raised a point about administration issues because I know that some food banks are being charged rental costs because they operate from

industrial units or other premises that are provided by local authorities. It would be useful to find out where the local authorities, not just the Government and others, stand in the process.

Angus MacDonald (Falkirk East) (SNP): We should also write to FareShare. Mr Beattie raised a point about where the £1 million from the Government has gone. According to our briefing, half of that money has gone to FareShare, which redistributes food from supermarkets to communities and charities. It would be good to get its take on the current situation and the petitioner's proposal.

The Convener: We will contact all those organisations, Mr Beattie. They can also see the *Official Report* of our discussion if they want to know how the questions arose. We will collate their responses and get back to you with the information that we can pull together. Thank you for bringing the petition to us and for articulating the concerns that you have heard from within the food bank movement.

John Beattie: Thank you very much for hearing me—I really appreciate it. Have a nice day.

The Convener: Thank you.

I suspend the meeting for a couple of minutes to allow the witnesses to change over.

11:02

Meeting suspended.

11:04

On resuming—

Trials and Sentencing (Disclosure of Occupations) (PE1572)

The Convener: Our third and final new petition is PE1572 by Parveen Haq on occupational disclosure in trials and sentencing. Members again have a note from the clerk—it is paper PPC/S4/15/15/4—as well as the petition and the SPICe briefing.

I welcome to the meeting the petitioner, who is accompanied by Nadim Ahmed, and I invite her to make a short opening statement of around five minutes on what her petition seeks to achieve. After that, I will open it up to questions from committee members.

Over to you, Ms Haq.

Parveen Haq: Thank you very much.

My name is Parveen Haq, and I am currently employed by the national health service as a senior physiotherapist in Clydebank. I have come along today with my nephew, Nadim Ahmed, who

is the main reason for my submitting the petition in the first place.

The aim of the petition before the committee is to ensure that a person's occupation is not revealed in court during a trial, especially when the person in question holds a position of trust. I feel that, if the person in question is accused of a crime that does not involve their occupation, that occupation should not be revealed to the court. Basically, when it is revealed, the person gets a harsher sentence.

According to research that I have done on the matter, MPs, police officers and lawyers receive harsher sentences when convicted by the court, but those sentences are dramatically reduced on appeal. They get harsher sentences in the first place because of their occupation, no matter what the crime is but especially when the crime is of a domestic nature and is nothing whatsoever to do with their occupation. By the time the matter gets to the appeal court, the person has lost their job and, because they do not have that standing any more, the sentence is drastically reduced.

The background to the petition is that my nephew was accused of a domestic crime that was outwith his police duties; in other words, it was nothing to do with the police at all. The reason why the court gave him a harsh sentence was his occupation, which he lost as a result; when he went to the appeal court, his sentence was dramatically reduced because he was no longer a police officer.

I have submitted this petition in the hope that the Scottish Parliament can introduce a law to prevent the occupations of accused individuals from being revealed not only in the courtroom itself but right at the start of proceedings when the case is lodged with the Crown Office. I hope that such a move will allow each individual to receive a fair trial in accordance with the Human Rights Act 1998.

The Convener: Okay. I will now open up the discussion to questions from committee members.

Kenny MacAskill: There is a difference between the trial itself and the sentencing. Do you not accept that at one stage someone has not been convicted of anything but that, once they have been convicted, their occupation is a material factor for the court?

Parveen Haq: Why would it be?

Kenny MacAskill: Because the court has to take into account who someone is, where they live, their age, their income, their occupation and so on. Surely whether the person in question is rich or poor is a material factor; it depends upon the category and the nature of the job. Do you also not accept that in some jobs there is an area of

trust? For example, if someone is, say, a nurse or a doctor and they are stopped for drink driving, notification will be made, because it is felt that in such occupations there is an area of trust. Do you not think that in some occupations there is a trust implication and that the authorities that govern them are entitled to know about such matters?

Parveen Haq: There is an area of trust, but do you not think that there is an area of trust in most occupations? What if I were, for example, a shopkeeper who was selling you something? Is there not an area of trust in my selling you an item at the value at which it should be sold? In my opinion, there is an area of trust in everything. Are we saying that there is no area of trust with a person who is unemployed and does not have an occupation?

Kenny MacAskill: You are right to say that everything has an aspect of trust to it. However, if a postman fails to deliver the mail, that is a serious charge; if they misbehave at a football game, the fact that they are a postman might be viewed as irrelevant. A lot of this is about context and whether someone has failed in their duties.

There is a fundamental jurisprudential view of the issue. Sentencing is not about vengeance but it is about atonement and there is an element of public shaming. We do not put people in the stocks but the reason why we allow newspapers to report court proceedings is that people in the community are entitled to know that Mr or Miss X, who lives at such-and-such an address and works at such-and-such, has committed an offence. The community is entitled to know who has committed an offence in their area.

Parveen Haq: Do you feel that the papers always tell the truth?

Kenny MacAskill: Most certainly not, but keeping them out is a separate issue.

Part of the purpose of court proceedings is about public shaming. I do not necessarily ever want to wear a horse-hair wig, but the reason why a magistrate of the court sits up there is so that they can say, "You have committed a crime in your community and I am imposing some retribution, collectively."

Do you not think that the public are entitled to know who the individual in question is? That is why we allow local newspapers into court. It dissuades people from committing a crime. Sometimes, what is important to someone is not the £150 fine but the fact that all their neighbours and friends have seen that they misbehaved on Friday night.

Parveen Haq: That is fine in itself, but my petition is not about that. My petition is about the fact that people in positions of trust or who have

certain occupations, such as police officers, lawyers and MPs, are given harsher sentences. If you compare convictions and crimes, you will see that people who are in positions of trust are more likely to be given custodial sentences, even for first offences, than unemployed people who have committed similar crimes, who are more likely to be let off with a suspended sentence.

My petition is not to stop newspapers from spreading the news to friends and family; it is aimed at promoting fairness, equality and human rights. I want to ensure that everyone is treated the same. If Joe Bloggs has done something and PC Bloggs has done something similar, their sentencing should be the same, and they should be named and shamed in the same way. Joe Bloggs has lost nothing—he has not got a job—but PC Bloggs has lost his job. Is that not enough? Do they also have to be given a custodial sentence? My research has revealed to me that no police officer, MP or lawyer who has stood before the court has got off with a suspended sentence, community service or a fine. Mostly, they get a custodial sentence.

Jackson Carlaw: I am not a lawyer, so I do not bring that perspective to the discussion.

When I read the petition, I was quite intrigued by the proposal but it prompted me to wonder whether it might not create a fresh inequality, because some people's occupations are such that their occupation will be known whether or not it is included in the information that is presented to the court. That would create an inequality in the sense that the occupation of a number of people would be understood or would become known during the proceedings, but the occupation of someone with a job that does not filter into the public domain would not. How fair would that be? I do not suppose that, if the person's occupation became known, the judge could suspend the trial or hold it somewhere else. It struck me that the proposal would simply become an obstacle to the element of justice.

I take the point that you make about sentencing, but I come back to Mr MacAskill's point. In a sense, the appeals process seeks to address any inequality in sentencing that might exist, and I am concerned about the possibility that your way of dealing with the perceived inequality might not create a new inequality in its own way.

Parveen Haq: I am saying that it does not matter whether the whole court knows the occupation of the person. What I am saying is that the lawyers, the procurator fiscal and the judge should not hold that person's occupation against them. It is fine that they know the occupation, but that should have nothing to do with the sentencing. The judge should not say that someone is getting a certain sentence because

they are a lawyer or a policeman. I have no issue with newspapers revealing someone's occupation but the person who is deciding the case—the sheriff, the judge or whoever—should not hold in their mind the view that they are going to impose a harsher sentence because of the person's occupation.

I do not want occupations to be hidden; they can be revealed. However, judges or whoever makes the decision in a case should be taught to put information about someone's occupation to one side and look only at the case, especially when it has nothing to do with the person's occupation.

Jackson Carlaw: Okay.

11:15

John Wilson: Good morning. You referred to the example of an unemployed person being sentenced. I am sure that people in the five postal code districts in Glasgow that the majority of the population of Barlinnie prison comes from would be interested to find out that they were less likely to be jailed than somebody from elsewhere. The reality is, though, that Barlinnie is full of people from the five most deprived communities in Glasgow.

For me, trust is the issue here, as we put faith in certain groups of people because of their status in society. You mentioned three such groups, Ms Haq: MPs, lawyers and police officers. If we lose trust in individuals from such groups, how do we deal with them? As part of your argument, you referred to the issue of domestic crime. However, if somebody found guilty of drink driving or embezzlement is a police officer, a lawyer, an MP or a member of the Scottish Parliament, how do we want to deal with such an individual? How do we want to highlight such cases in our society?

We expect MPs and MSPs to pass the legislation that we expect society to abide by; we expect those who are lawyers to work through that legislation to represent people in court or, in another role, to pass judgment on individuals; and we expect police officers to enforce the law. Those three groups in particular are trusted by society to carry out certain duties on behalf of society. How do you think we should treat individuals from those groups when they break the law? Should we be more lenient with them? Or should the court system treat them, as you argue happens at the moment, more harshly than those from other groups in society? How should we punish those individuals, who we hold in high esteem and trust to carry out certain work in society, conferring on them the role of ensuring that people in society observe the rules, legislation and laws that society makes?

Parveen Haq: Somebody who holds a position of trust can be accused of doing something wrong like drink driving, but at the end of the day they are only human and make mistakes like everybody else. You would think that, because they held a position of trust, the courts would be lenient with them. However, they are not lenient with them and I would not expect them to be. I would expect the sentencing to be the same for anybody who is caught drink driving—that is what I am arguing.

I do not think that the courts should be more lenient on those who hold a position of trust. However, before the event behind the petition happened to us, I assumed that the courts would be more lenient on people who held a position of trust. They do not, though; they go the other way. But why? Because they are punishing those individuals. However, as I have said, is it not punishment enough to give them the same sentence as everybody else?

You mentioned Barlinnie, Mr Wilson—yes, it is full of criminals from five postcode areas, but they are not in there for their first offence; they are in there for their 10th, 12th or 15th offence. For their first, second and third offences, they get told that a fine, a suspended sentence or a community sentence is fine. Those in Barlinnie are not in there for their first conviction; they are in there because of how many convictions they have had. People who hold a position of trust and are convicted of a first offence should be treated like anyone else convicted of their first offence. I can understand a repeat offence being treated differently, but anybody can make a mistake for a first offence.

John Wilson: You are implying that, if a police officer, a lawyer or an MP has a first offence, they are more likely to find themselves being imprisoned. Is that the evidence that you have found?

Parveen Haq: Yes.

John Wilson: What supports that evidence?

Parveen Haq: I have done research. Basically, I have not come across MPs, but I have come across lawyers. You can read the news stories. If you do a Google search, you will be able to see information about police officers getting custodial sentences when they have been arrested, no matter for what. That is fine enough if the offence was committed on duty, but in my eyes the only person who is in their occupation 24/7 is a doctor. When a person becomes a doctor, their title changes to "Dr". When somebody is having a heart attack on a flight, a doctor or somebody who can do first aid will be called for. If two people are fighting on an aeroplane, people will not call for a police officer or a justice person to come and help.

John Wilson: You have based your evidence on a Google search.

Parveen Haq: No—newspapers. The learned gentleman, Kenny MacAskill, highlighted newspapers and the need to know stories. Read the newspapers; I have read newspapers.

John Wilson: What you are saying is that your evidence from Google searches and newspapers—

Parveen Haq: It is not just from newspapers. I have researched High Court and sheriff court cases. It is not just from Google and newspapers.

John Wilson: If a case appears before the High Court, it is of such a serious nature that a custodial sentence may be the only action that can be taken.

Parveen Haq: But not in the sheriff court.

John Wilson: I am trying to get down to the evidence that what you say is based on. I have anecdotal evidence that some people who are held in trust are not prosecuted but are basically taken before their various associations. Two weeks ago, we had a case in which a doctor decided to withdraw himself from the register because he was found not to have been carrying out operations. No action was taken against that doctor. The medical profession could not take action against him, because he had removed himself from the register.

It can be argued that, in different parts of society, people find their way round the law and do not face the court process to be charged or face punishment. I certainly ask the committee to investigate further the number of cases from the various professions that you have indicated in which people have found themselves facing a custodial sentence for a minor first offence. That is your assertion.

Jackson Carlaw: I am sorry to come back to this issue, but I thought that my recollection was flawed. I have just looked at the petition again and would like to quote two sentences from it. It says:

“I am putting this petition forward as I think that new laws should be introduced, which prevent people’s occupation from being disclosed in a court of law, especially if the accusations have nothing to do with the occupation”

and

“This petition is in order that evidential law can be changed and when a case is taken to court, a person’s occupation should not be revealed unless that occupation has been used as part of the crime.”

I refer to my earlier point. Maybe you are defining the petition more narrowly than that suggests. The petition suggests that a person’s occupation should not be known to the court, but I made the point that that could create an inequality,

as certain people’s occupations might be known. Are you narrowing the petition simply to say that, at the point when sentencing is being taken into account, the occupation should not bear relevance to the sentence that is awarded?

Parveen Haq: No. I am saying that the occupation should not be revealed. You asked me about what would happen if people found out. If people find out, they find out, but I am saying that the lawyers in the case—the procurator fiscal or the sheriff—should not repeatedly mention in the case that the person has such and such an occupation. Whether they know his occupation is another thing; I am saying that it should not be revealed to everybody. Whether everybody who is sitting in the court knows the person’s occupation is beside the point. Basically, they should not make a big thing of the fact that the person holds a position, as that fact is then used.

Jackson Carlaw: My point was that the proposal would create a fresh inequality, because people who weighed up the evidence in one case and knew what somebody’s occupation was might be affected by that knowledge, but that might not be known in an entirely similar case, and that would create an inequality in the outcome.

Parveen Haq: That is what I am trying to say: they should not know that. If there are two similar cases in one of which the occupation is known and in one of which it is not, why would people hold that as an aggravating factor in their mind?

The Convener: I do not think that we are going to get agreement.

Jackson Carlaw: I understand that, convener. Thank you.

The Convener: We need to determine how to take the petition forward, if that is what the committee wants to do.

Kenny MacAskill: I think that the Scottish Government has now found the money for a sentencing council, which the Parliament supported and agreed to a good few years back. It seems to me that this is a jurisprudential matter. There are difficulties in what can be done when somebody is charged. There are those who are notified automatically because of their status, but you cannot stop the process, because all that the court produces is a document that says a name and address. It does not say the occupation, although, as Jackson Carlaw says, it might be known.

The petition certainly raises issues to do with sentencing. We should find out whether the sentencing council is about to be established. My understanding is that it is in the process of being set up with legal and lay members, and it may be the best port of call.

The Convener: Do members agree with that?

Members *indicated agreement.*

The Convener: We will take the petition forward in the way that Kenny MacAskill suggested, get the response to the petitioners, and consider the petition again at a future point. I thank the petitioners for lodging the petition and enabling the discussion to take place.

Parveen Haq: Thank you very much for having us.

The Convener: I suspend the meeting for five minutes to give people a break.

11:26

Meeting suspended.

11:30

On resuming—

Continued Petitions

St Margaret of Scotland Hospice (PE1105)

The Convener: Agenda item 4 is consideration of eight continued petitions, the first of which is PE1105, by Marjorie McCance, on St Margaret of Scotland Hospice. Members have a note from the clerks, which is paper 5, and the submissions that have been received.

I welcome to the meeting Gil Paterson, who has a constituency interest in the petition and has been involved with it for a considerable time. Before I open up the discussion on the petition to the committee, I think it worth asking Gil Paterson to make a few points.

Gil Paterson (Clydebank and Milngavie) (SNP): I would certainly be grateful for that, convener.

I will start at the end, by making my appeal to the committee to keep the petition open. I note that the committee has received a letter from the Government. I should highlight the fact that I am not in the Government; I just happen to be a member of the party of government, which is an entirely different thing. Like every member, I have to look after the interests of my constituents and I do not believe that it would be in the interests of my constituents for the petition to be closed at this time.

For anyone who does not know, St Margaret of Scotland Hospice is the oldest hospice in Scotland. It has just celebrated its 65th anniversary. Sister Rita Dawson, the lady—or, I should say, nun, although she is also a lady—who runs the establishment, has just received an honour from the Queen, and she will also be given the freedom of West Dunbartonshire. We should think about that before any consideration is made. We owe it to the hospice to go the extra mile. The committee has been patient and supportive over a long period, and now would be the wrong time to close the petition.

The committee has received a letter from Greater Glasgow and Clyde NHS Board. I have had a meeting with the health board, along with the former provost of West Dunbartonshire, Denis Agnew. From looking at the contents of the letter and from the discussions that have been had, I feel that there is clearly a willingness on the part of the health board to get this issue off the table. The health board has moved, as has been acknowledged by the hospice and me, and we are certainly grateful for that. The meeting and the

letter suggest that we have a willing partner, and of course the hospice itself is very willing.

Where do we go from here? Clearly, we need a person of some stature to oversee the process. There is a problem relating to the number of chartered accountants that have done business with either the health board or the hospice but I believe that someone of public stature could oversee the process, although a chartered accountant would still be needed to do the evaluation. Finding such a person would make an enormous difference.

I do not think that the health board will be difficult at all. I believe that the thought is that something has been missed and actually, if that is the case, the health board will, in a way, be relieved and offer no opposition at all. I believe that simply because, as the hospice has acknowledged, the health board has moved. For the issue to be concluded satisfactorily, the position vis-à-vis other hospices has to be evaluated. There was a promise to evaluate that to find out the exact position, but that work has never been completed. Until that happens, there is a prospect that the issue will never be sorted. We need an evaluation to see exactly where we are and then, based on that, a determination can be made. For those reasons, the committee should keep the petition open.

The Convener: Members have been keeping an eye on the issue as it has moved forward. I open up the discussion to suggestions from members.

Jackson Carlaw: I have to say that I am slightly uncomfortable that the Cabinet Secretary for Health, Wellbeing and Sport has almost tried to direct the committee in its decision making. I do not know whether that sets a precedent, but it is not a regular thing.

This petition goes back to 2007, and it is difficult to remember what a contentiously hot issue it has been over many years. In that period, chief executives of the health board have come and gone, as have MSPs who have been associated with the petition. The reason why the petition has stayed open all this time is that, notwithstanding what seemed to be a commonsense route through, the various parties concerned found it extraordinarily difficult. At one stage, there was a definite lack of trust because of the way in which the health board was approaching the issue. From what Mr Paterson says, that seems to have been alleviated.

My view is that, if we are not closing the petition now, we are very close to the point when the committee should close it. However, given the ongoing lack of conviction about good will prevailing, I would like the arbiter and auditor to be appointed

so that we know that we have taken it to that stage. I would then be comfortable about closing the petition. We would not necessarily need to await the outcome of the process. At that point, it would be reasonable for us to say that we had achieved the objective that arose out of all the difficulties that have presented themselves at the various stages in the long time in which the petition has been rumbling along.

Angus MacDonald: I note the Scottish Government's suggestion that we close the petition, which I have to say is an unusual response—we do not get many of those from the Government. Nevertheless, it is encouraging to note that the health board has moved on the issue. Although I acknowledge the health secretary's suggestion, I think that there is merit in keeping the petition open to allow the committee to monitor progress in the short term. I am therefore happy to keep the petition open.

John Wilson: I am one of those members who have been involved with the petition all the way through, as I was a substitute committee member in November 2007, when the petition was originally presented.

My colleagues have commented on the final paragraph in the cabinet secretary's letter. That warrants some comment, particularly the point that Mr Carlaw and Mr MacDonald have referred to. The cabinet secretary suggests that we close the petition, which is perhaps a hint that we should not close it.

The serious point in that final paragraph is the issue about the Government being

“unsuccessful in progressing the expert accountancy review.”

I would like to know why the Government has been unsuccessful in proceeding with that. I know that there were issues about who should be appointed to carry out the review, but I hope that we have come to a stage at which all sides can agree. As Gil Paterson has said, if we could get the right person to carry out the review, we could move forward substantially. I would like to find out why the Scottish Government has been unsuccessful in getting the issue resolved. After all, we received its response in July.

Things have moved on; the health board and the hospice have moved on; and we could reach an early resolution. However, as Gil Paterson has made clear, the review has to be carried out to the satisfaction of everyone concerned, so that we can move on and close this petition in a way that ensures that the petitioner feels that the issue has been dealt with in a way that accommodates the petition's initial intent.

We could write to the Government to ask it not only to hold the review but to set a timetable for the review to be carried out, so that we are not sitting here considering the petition in eight or nine years' time because the review has not been carried out. I think that the review could be carried out quickly, and that Government could give us a timescale for that.

The Convener: The consensus appears to be that we do not want to put this to bed yet—pun intended. We will write to the Government in the terms that John Wilson has suggested and ask for an explanation of why the issue has not been resolved and, if nothing else, an indication of a timescale by which the review can be expected to have concluded. In the meantime, we will keep the petition open. That might disappoint the cabinet secretary, but we will make her aware of the fact that the committee was surprised by her suggestion.

Gil Paterson: It does not disappoint me, convener.

The Convener: Do we agree to the suggested action?

Members indicated agreement.

Youth Football (PE1319)

The Convener: Our next current petition is PE1319, by William Smith and Scott Robertson, on improving youth football in Scotland. Paper 6 refers to the petition, and members will have the submissions that have been received.

Kenny MacAskill: This issue has not gone away since it was raised the last time. I do not know whether we want to convene a round-table discussion—that might be difficult, timetable-wise; we are in the hands of the clerks on that matter—but we could certainly write to Scotland's Commissioner for Children and Young People, the Scottish Football Association and the Scottish Professional Football League for an update. As things seem to be bubbling away under the surface—indeed, the issue has been raised in the newspapers—I think that it would be premature to close the petition. I am sceptical about whether we would want to take any direct, hands-on action, but it might do no harm for us to put pressure on the parties involved.

The Convener: I think that that is sensible. Do members agree to the suggested action?

Members indicated agreement.

Private Schools (Charitable Status) (PE1531)

The Convener: The next petition is PE1531, by Ashley Husband Powton, on removing charitable

status from private schools. Paper 7 and the submissions have been provided by the clerks.

Jackson Carlaw: We have considered this at some length. The Government's position is clear and, on that basis, I recommend that we close the petition. I do so in acknowledgement of the fact that it is for political parties that have views on these matters to progress these issues as they see fit. From the committee's point of view, we have got to a point at which there is nothing further that we can do to take forward the petition.

John Wilson: We must recognise the fact that the petitioner has submitted a lengthy response to the submissions that we have received so far. That response contains a number of questions that it might be useful to try to pursue with the Office of the Scottish Charity Regulator and others. Clearly, the petitioner is in some doubt about why charitable status should be afforded to the independent school sector on the basis of the criteria that OSCR uses. If the committee is so minded, I would like to get answers to some questions on behalf of the petitioner, so that we are clear about how OSCR makes its decisions in relation to the attainment of charitable status by various organisations.

11:45

Kenny MacAskill: I hear what John Wilson says, but I tend to disagree. I thought that OSCR was quite clear that it thought that this was more down to Government direction and the statutory basis. We are coming into the period in which we will wind down and look to the 2016 election. It seems to me that the petitioner has raised a fundamental issue regarding charitable status, and rather than trying to resolve it within the current constraints, it seems to me that politicians—it will not be me, as I am stepping down—should consider what direction they wish the Government to take.

I tend to think that, if we go to OSCR at present, we will just get a rehash of the evidence that we have had that will point to the Government and say, "This is what we have done and why. If you want to change it, you will need to legislate."

David Torrance: I am happy for the petition to be closed. The committee has taken it as far as it can, given the evidence and the way we have gone about considering it.

Angus MacDonald: I tend to agree with Mr Carlaw, Mr MacAskill and Mr Torrance. It may be time to hand the matter over to the political parties for them to take it forward after the next election. I put on the record my thanks to the petitioner, who has put forward a strong case from day 1. Her determination on the matter is to be admired. I am

in favour of closing the petition, but with a view to the issue becoming a political one in the future.

The Convener: I do not think that we would necessarily want to go to a vote. It is clear that a majority of the committee want to close the petition. John, do you want to say anything?

John Wilson: I hope that, as Angus MacDonald and others said, the political parties will take the issue on board. I look forward to their manifesto commitments in the coming months in relation to the independent school sector, the use of charitable status by organisations in Scotland and the role of OSCR.

The Convener: Do you want to push it to a vote or are you happy with the decision?

John Wilson: I am happy that my views are on the record.

The Convener: Okay. We will close the petition.

Restraint and Seclusion in Schools (National Guidance) (PE1548)

The Convener: The next petition is PE1548, by Beth Morrison, on national guidance on restraint and seclusion in schools. Paper 8 refers, and members have the submissions. I invite contributions from members.

Jackson Carlaw: We heard some powerful evidence on the petition. I am struck by the petitioner's submission, which is slightly disturbing in as much as she clearly believes that the responses that we have received address the matter in such a way that they focus not on the subject of her petition but elsewhere. For that reason, I think that there is considerably more that we need to do.

I support the clerk's recommendation that we write to the Scottish Government about the needs of children with complex and severe learning difficulties, raising the issues that are detailed in our paper. We need to get considerably more information and to focus on what we heard, which gave us some cause for concern. It seems from the petitioner's submission that the situation, which we thought was completely unacceptable, is continuing unabated as we speak.

The Convener: I dealt with such a case recently, and I was horrified by the way in which the young girl was treated. The response that we have received does not match the reality of my constituent's experience, and it completely misses what the petition is aiming at. There is a good bit of work still to be done to get appropriate responses.

John Wilson: I would like us to impress on the Government, when we write to it, that it should consult the petitioner and other stakeholders in the

area. The petitioner, in oral evidence and her submissions, has highlighted a number of other cases that have been brought to her attention. If the practice is widespread, is going unchecked and is unregistered, we need to ensure that the Government is bringing forward proposals that address the issues that parents and others have identified.

I urge the Government to consult the petitioner and other stakeholders to ensure that it addresses and hears at first hand about the issues that parents have raised.

The Convener: Do other members wish to go with the three recommendations that have been made or do they have anything to add?

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

The Convener: I think that they cover what is required. We are agreed that we should follow the recommended action and pursue the matter further.

Child Abuse (Mandatory Reporting) (PE1551)

The Convener: PE1551, by Scott Pattinson, is on the mandatory reporting of child abuse. Paper 9 from the clerk and the submissions refer to the petition.

Kenny MacAskill: We need the Government to be clear on the issue. I can see the arguments in favour of the petition and, equally, I can see the consequences, not all of which are good for organisations. In addition, pressure might be put on victims who are reluctant to share. There needs to be greater scope in the discussion, so perhaps we should ask the Government what it is going to do and how it proposes to take the issue forward. I do not think that we can ask the Government to legislate immediately. We need to take soundings from all who are involved, because the issue is not simple or straightforward.

The paper suggests writing to the chair of the inquiry to highlight the petition. The inquiry is likely to run for a considerable period of time, so I am not averse to that, but the Government must give some indication of whether it will pull stakeholders together, because there are arguments for and against.

The Convener: Members seem to be pretty much agreed with that course of action.

Members indicated agreement.

American Signal Crayfish (Trapping) (PE1558)

The Convener: PE1558, by John Thom, on behalf of the RNBC Crayfish Committee, Ken-Dee catchment, is on the American signal crayfish.

Members have paper 10 from the clerks and the submissions relating to the petition. If members have any comments, they should make them now.

Jackson Carlaw: I do. I read with interest the Scottish Environment Protection Agency's submission, which is beautifully presented with lots of colourful pictures and details. When I got to the end of it, I was not sure that it had addressed any of the points that I had raised, so I ran off the *Official Report* of the evidence session that we had with SEPA, particularly my exchanges at columns 11 to 17. I found that the points that I raised had not really been addressed in SEPA's very lavish production.

First, the claim was made that a lot of current research is under way. I have a table that details research that goes back more than 15 years, but it does not necessarily identify anything that is happening at the moment.

Secondly, I know that we keep hearing from Dr Edsman, but the point that is continually made but never addressed is about the difference between commercial fishing and not-for-profit trapping and fishing, all the proceeds from which are diverted back into research. I have still not heard a specific response to that. If the activity is done for commercial gain, I can understand the link between that and the signal crayfish travelling into other lochs and lakes, but when it is not for commercial gain, I am less persuaded.

I also note that, at the very back of the SEPA report, there are case studies on the use of synthetic pyrethroids and other biocides. I do not know that the examples from the United States, France, Norway and Sweden vindicate the evidence that we have received. Many of the examples in the report appear to have had some effect at the time, because no crayfish were found during the following summer and none were caught in traps in the following year. The studies say things such as,

"All the treatments killed all the crayfish in cage tests"

and

"The treatment killed crayfish in test cages, but there are no results yet".

What surprised me was that the dates of the case studies were 2008, 2009 and 2010, and they appeared to be the most recent dates on which we had any evidence about the long-term effects of the treatments. If a great deal of money is being spent on current research, I would have thought that we might have been interested in spending some of it on at least trying to find out about the long-term effects of the treatments.

I come out of all this thinking that I am being fobbed off, and I am inclined to say that I want to drill down further with some specific questions on

the points that were put to SEPA and Scottish Natural Heritage at our earlier meeting. As we are not getting the information directly, we should go back to some of the examples of alternative methods that were trialled to ask what the long-term consequences have been and whether any money has been invested in research to establish what those were.

The Convener: That was a comprehensive critique of the responses. They all seem to be valid questions that we should be asking. Do members agree that we pursue the issue in the manner that Jackson Carlaw would like?

Members indicated agreement.

The Convener: Thank you for paying such close attention to the petition, Jackson; that has been helpful.

Local Authority Planning Appeals (PE1560)

The Convener: PE1560, by John Buston, is on local authority planning appeals procedure. Paper 11 and the submissions are available to members.

Kenny MacAskill: We seem to have come to the end of the road on this one.

The Convener: Sometimes we just have to accept that that is the case. There is going to be a review of planning, so we could bring that to the attention of the panel. We will close the petition but will write to the panel with the petition and suggest that it be borne in mind during the deliberations.

Members indicated agreement.

Loch Ness and the Great Glen (PE1564)

The Convener: The final continued petition today is PE1564, by James Treasurer, on behalf of Friends of the Great Glen, on saving Loch Ness and the Great Glen. Members have paper 12 from the clerk and the submissions.

Kenny MacAskill: I am for closing the petition. The local authority seems to be on the case and things are not as they were being portrayed. The petitioners have made their point and some of it seems to have been taken on board by the council, but the areas that it was suggested were under threat are not likely to be where the turbines are located. I am for closing the petition and leaving the issue with the council.

The Convener: Do members agree?

Members indicated agreement.

The Convener: With that, we can close the meeting. I thank everyone for their contributions.

Meeting closed at 11:56.

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