



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# PUBLIC PETITIONS COMMITTEE

Tuesday 23 February 2016

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**PUBLIC PETITIONS COMMITTEE**  
**4<sup>th</sup> Meeting 2016, 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:**

Jim Eadie (Edinburgh Southern) (SNP) (Committee Substitute)

**CLERK TO THE COMMITTEE**

Catherine Fergusson

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Public Petitions Committee

*Tuesday 23 February 2016*

*[The Convener opened the meeting at 10:31]*

### Continued Petitions

#### Congenital Heart Disease Patients (Care) (PE1446)

**The Convener (Michael McMahon):** Good morning everyone, and welcome to the fourth meeting in 2016 of the Public Petitions Committee. I ask everyone to switch off electronic devices, telephones and so on, because they interfere with the sound system. We have apologies from David Torrance, and I welcome Jim Eadie, his committee substitute.

We consider continued petitions this morning. PE1446, which was brought by Dr Liza Morton on behalf of Scottish adult congenital heart disease patients, is on Scottish standards for the care of adult congenital heart disease patients. Members have all the documentation that we have received. We have been pursuing the issue for some time. The petitioner has been involved in the consultation on standards, and it looks as though we are awaiting the report in that regard. I do not think that there is much more that we can do with the petition. Do members agree that we can close it?

**John Wilson (Central Scotland) (Ind):** I just want to comment that the petitioner has indicated that she has been invited to sit on the Scottish congenital cardiac advisory board and the working group that has been tasked with developing the standards. That is a success for the committee. People have taken note of the petition. We wish the petitioner the best in influencing the way forward for congenital cardiac services.

**The Convener:** That is a real outcome for the petitioner. The issue is being taken forward, which is what she wanted to happen. We can close the petition having achieved something, I think.

#### Judiciary (Register of Interests) (PE1458)

**The Convener:** PE1458, which was brought by Peter Cherbi, is on a register of interests for members of Scotland's judiciary.

We have written to the new Lord President, whose position is no different from that of the outgoing Lord President. However, we invited the outgoing Lord President to come to the committee to discuss the petition; does the committee want to

extend the same invitation to the new Lord President, so that we can explore the issue? There is still a live debate on the matter, and I would certainly be reluctant to close the petition without having exhausted the discussion and examined the issue—almost to destruction, I think. There are serious questions to ask.

**Kenny MacAskill (Edinburgh Eastern) (SNP):** There is clearly still debate about the matter. It was the Judicial Complaints Reviewer who initially indicated a change in tack, which was upheld.

Where we can take the matter and whether it should be this committee that pursues it, I am not sure. Lord Carloway, the new Lord President, has made his position quite clear. It seems to me that the question is whether anyone else wants to pick the issue up. We could ask the new Lord President the same questions that we asked of the former Lord President, but given that we have his response in writing, I do not know where that would take us.

The question is whether the Justice Committee or the Scottish Government wants to pursue the issue. My recollection is that it is about six months since we heard from the minister but there was no indication of any change in perspective.

**The Convener:** There are still issues to be debated and it would be useful to get the new Lord President's views on the record. The question is whether we, as an out-going committee, extend that invitation or put it in our legacy paper so that the new committee can pick it up and run with it.

**Kenny MacAskill:** I would be inclined to leave it in the legacy paper on the basis that we have had a reasonably full letter from Lord Carloway. If we were to squeeze him in within the next fortnight, I am sceptical as to what we could get from him that we have not already had in writing.

**John Wilson:** The petitioner has suggested that the committee write to Professor Alan Paterson of the University of Strathclyde, who has apparently done some independent academic research on the subject. It might be as well writing to the Lord President and asking him to consider whether he would appear before the committee. That might also be something for the legacy paper. We should also suggest that the committee invites Professor Alan Paterson to give some independent academic scrutiny of what has been requested in the petition.

I spent half an hour this morning trying to get the updated register of interests of judicial members of the Scottish Courts and Tribunals Service. I am assured that it is on the site somewhere, but although I tried for half an hour this morning, it was impossible to find. The latest register of interests that I have comes from last year and so is not up-to-date enough to include Lord Carloway. I know

that he registered no interests when he was Lord Justice Clerk.

We have been told that there are safeguards in place, but it would be useful to know how the general public get the information that they are looking for. If it is difficult to get the Scottish Courts and Tribunals Service judicial service register, it raises other questions about where we are going and whether we are making it more difficult for people to find out judicial interests.

The former Judicial Complaints Reviewer, Moi Ali, has recently written to *The Scotsman*, urging the establishment of a register—just as she did when she gave evidence. The current Judicial Complaints Reviewer has also said that it would be helpful to have a register of judicial interests.

I would like to think that the future Public Petitions Committee could take the issue forward and invite Lord Carloway and others to come and give evidence, perhaps answering some of the questions that arise further down the road.

**The Convener:** The suggestion is that we put it in our legacy paper and write to Professor Paterson, as John Wilson suggested, so that his response would be available to the new committee, which could take it into consideration. Is everyone happy with that?

**Members** *indicated agreement.*

**Kenny MacAskill:** I am fine with that. It would also be up to the future committee to consider what will be on-going in the United States of America, where judicial declarations go to an extreme that we might not wish to emulate—I am thinking of the replacement of Justice Scalia.

**The Convener:** It is interesting to watch what is happening there and compare it.

### **Bulk Fuel Storage Safety (PE1522)**

**The Convener:** PE1522, from Simon Brogan, is on improving bulk fuel storage safety. I do not think that there is much more that we can do with the petition. We have had responses from all the interested parties and it looks as though the situation will remain the same.

**Kenny MacAskill:** Moving along.

**The Convener:** Do members agree to close the petition?

**Members** *indicated agreement.*

### **A83 (Rest and Be Thankful) (PE1540)**

**The Convener:** PE1540, by Douglas Philand, is on a permanent solution for the A83. We need to keep the petition open. There is no way that we can close it. The solution has not been found. I went up to Inverary to do a site visit before I joined

the committee, but there have been at least two landslides in the intervening period. It is having a huge impact on the local community.

**John Wilson:** It is not just landslides; on one occasion they had to close the road because of a boulder, which they had to demolish and then make the side of the hill safe.

I want to draw attention to the submissions that we have had from members of the public on the issue. One, in particular, concerned me, because the person described being held at traffic lights underneath an area where there had been landslips. It would be useful to find out from Transport Scotland what safety measures have been put in place. That particular member of the public said that other road users were alarmed at being held at an area that was known to be subject to landslip.

Another member of the public referred to “The current web of knitting stretching up the hillside”,

which conjured up an image of people knitting webs to stop the boulders coming down. The issue must be taken forward and included in our legacy paper, because a permanent solution is needed.

**The Convener:** Okay. We will keep the petition open and get it into the legacy paper. We will ask our successor committee to keep an eye on the issue.

### **Child Contact (Parental Rights) (PE1570)**

#### **Post-separation Child Contact and Financial Provision (PE1589)**

**The Convener:** PE1570, from Alan Lee, is on parental rights to child contact, and PE1589, from Stewart Currie, is on an independent review of child contact and financial provision post separation. Work is on-going in relation to the matter, and I doubt very much that the issues raised in the petition would not be considered as part of that work. The petitioners have flagged up the issues, the ministers know that the issues are there, and I think that the issues are being discussed.

Members have a draft letter on the petitions in their papers. Are you happy to note that that correspondence is going, too? All that contributes to the discussion, to ensure that issues are raised as part of the review.

**Members** *indicated agreement.*

**The Convener:** Okay. We can close the two petitions on that basis.

### Primary School Playground Supervision (PE1583)

**The Convener:** PE1583, from Lisa Willis, is on primary school playground supervision. I think that there was a lot of sympathy for the issue that the petitioner raised, although we were all aware of the burden that the proposed approach would place on local authorities, and what it would mean for janitorial and teaching staff.

It is right that the issue has been flagged up, and I think that local authorities are aware that they must take account of the issue, but I do not think that we can insist on the outcome that the petitioner is looking for, although I hope that local authorities acknowledge the importance of the issue and people's concerns about children's safety in the playground prior to school starting, which is as important as safety during the rest of the school day.

The responses that we got from local authorities suggested that they are aware of the issue, but I think that what is asked for is beyond their capacity to deliver at the moment. The unions are not keen on the proposed approach, although they are certainly aware of the problem. What it would mean for terms and conditions, and the renegotiation that would be needed, make the issue far too complex to resolve easily. I think that we will have to draw a line under the petition.

**John Wilson:** The petitioner made an interesting point about children who are dropped off early in the playground by school transport. The question is when responsibility for the child kicks in. Is it when they board the school bus?

I agree that we should close the petition, but I think that it is incumbent on us to say to the petitioner that she should continue to negotiate with the local authority. There is no consistent policy throughout Scotland; some local authorities and schools have policies in place that take account of children arriving in the playground early and put supervision in place, whereas others do not seem to do that. It seems to come down to the headteacher's discretion.

In closing the petition, I suggest that we ask the petitioner to continue to discuss the matter with the headteacher in question. It might be that voluntary action by parents, by agreement with the headteacher, might satisfy the petitioner.

**The Convener:** Do members agree to close the petition on that basis?

**Members indicated agreement.**

### Scotland and Jamaica Relations (PE1585)

10:45

**The Convener:** Our next petition is PE1585, by Isabel Lennox, on behalf of flag up Scotland Jamaica, on relations between Scotland and Jamaica. It was a really interesting petition, which certainly enlightened me on the links between Scotland and Jamaica. It is good to know that people are aware of those links and are trying to promote them, but I understand where the Government is coming from. Given that we face a situation in which budgets are tight, it is probably too much to ask the Government to extend its external relations capacity at the present time.

However, although we accept the Government's position, we could write to it to ask it to bear it in mind that, when things turn round and start going in the other direction, what the petition is asking for should have a high priority, because I think that it would be very beneficial to build on the links that the petition identified.

Do members agree?

**Kenny MacAskill:** That is the least that the Government can do—it would not require a full-time secretariat in Kingston or wherever just to put people in touch with one another. The cost of doing that would be very limited.

**The Convener:** I am sure that the organisation that lodged the petition is doing such work, but I think that setting up with Jamaica the same formal relationship that Scotland has with Malawi might be beyond the capacity of the Government at present. We can accept that, but that is not to say that that would not be desirable in the longer term, when there is a bit more capacity for building external relations.

Do members agree with what I suggested?

**Members indicated agreement.**

### Invasive Non-native Species (PE1586)

**The Convener:** PE1586, by James A Mackie, on behalf of Innes community council, is on statutory control measures for invasive non-native species. Do members have any views on what we can do with the petition?

**John Wilson:** I am reluctant to close the petition, because the response from the Scottish Environment Protection Agency raises a number of questions. For example, I want to ask SEPA where we are with the research and the trials on potential biocontrol measures for invasive non-native species. I have heard that some biocontrol work is taking place, but we do not know where that has got to. It would be useful to find out how far SEPA has got with that research.

Another issue that is raised by SEPA's letter is the fact that the amount of money that is made available to tackle invasive non-native species seems to be going down on an annual basis, but the problem seems to be increasing. Are enough resources available? What the minister, SEPA and others have told us is that the voluntary control mechanism that has been put in place does not seem to be working. The minister says that two statutory control agreements have been put in place, and it would be useful to find out how successful those have been.

A couple of weeks ago, there was an issue in my area with someone who claimed that they had a licence to clear Japanese knotweed. I doubt very much that the individual or the organisation that he claimed to be working for had such a licence. There are concerns about who has the right to remove non-native species such as Japanese knotweed, giant hogweed and Himalayan balsam, so I would like us to get clarification of that.

In the past, as I have mentioned previously, I have tried to find out which organisation to contact to report the illegal removal of Japanese knotweed. I discovered that there is no Scottish Natural Heritage or SEPA helpline at the weekend, and the police claim that it is not their responsibility to monitor such matters. For many people, it would be useful to know which organisation it is best to get in touch with. SEPA seems to say that it is SNH, while SNH says that it is not really sure, because the enforcement is sometimes SEPA's responsibility. It would be useful to get clear guidance for members of the public to follow in relation to how to tackle the illegal removal or the spread of invasive non-native species in their communities.

**Angus MacDonald (Falkirk East) (SNP):** I apologise for being late, convener. I was stuck in traffic.

I am sure that we all have issues in our constituencies with giant hogweed, Japanese knotweed, Himalayan balsam, which is a particular problem in my constituency, and rhododendrons. I agree with John Wilson, particularly with regard to the funding for the water framework directive, which seems rather low, given that this is a national problem that needs everyone working together to address it. Could we suggest in our legacy paper that the committee could invite SEPA to come along and give evidence on the issue? In the past, I have called on SEPA to raise its game on a number of issues, and this could well be another one that needs to be addressed.

**The Convener:** That is a good suggestion. We could write to SEPA, as John Wilson suggested, and get that back in so that it becomes part of the consideration of the petition, and we can put that

invitation in the legacy paper. Do members agree that that is a reasonable course of action?

**Members** *indicated agreement.*

### Scottish Civic Forum (PE1587)

**The Convener:** PE1587, by Arthur McFarlane, is on reinstating the Scottish Civic Forum. It appears that no one agrees with his petition.

**Kenny MacAskill:** He raises an appropriate point, but the Government is not keen on it. There are other fora available, and I do not think that there is anything that we can do.

**The Convener:** I think that the civic forum was of its time. If there was a need for it, it would come back again. There does not seem to be any agreement on the petition, so all that we can do is close it.

**Angus MacDonald:** It is worth noting that the Scottish Government is not closing the door on it happening eventually.

**The Convener:** That is the point that I was making. If there is a need for it in future, it could happen again, but it was of its time and perhaps there is no requirement for it at the moment. However, it is an option that remains available should such a forum be needed.

### Pets (Compulsory Scanning) (PE1588)

**The Convener:** PE1588, by Daisy Harris, is on scanning all pets found on Scottish roads. Do members have any views on that?

**Kenny MacAskill:** There is no real support for it. On that basis, I do not see what we can do.

**The Convener:** It is not going to go anywhere, is it? I get the impression that local authorities faced with having to make cuts would take the financial decision to cut such a service rather than introduce it. I understand where the petitioner is coming from, but I do not think that there is any real interest in taking the issue forward, and there is no point in pretending otherwise. Shall we close the petition on that basis?

**Angus MacDonald:** I agree, convener. However, it is perhaps worth noting that routine scanning of dead pets found on roads is already best practice, so it is something that has already been suggested.

**The Convener:** Yes, there is some work in that area, but the mandatory scanning that the petition is calling for just does not have the support to take it further. There is not much more that we can do about that.

### **Acupuncturists (Licensing) (PE1590)**

**The Convener:** PE1590, by Nick Pahl, is on behalf of the British Acupuncture Council, on licences for acupuncturists.

**Kenny MacAskill:** Again, there is no support. I do not see where we can take it.

**The Convener:** Again, it is the financial burden on local authorities that becomes the biggest consideration. That is probably not where the petitioner would want to take it, but he cannot ignore the cost implications, even if there was a desire to make a change. It just does not appear to have any support, because of the burden that it would place on local authorities. We are not going to get any agreement on this petition either, so shall we close it?

**Members** *indicated agreement.*

### **Healthcare Services (Skye, Lochalsh and South-west Ross) (PE1591)**

**The Convener:** Our 13th and final petition is PE1591, by Catriona MacDonald, on behalf of SOS-NHS, on the major redesign of healthcare services in Skye, Lochalsh and South-west Ross. I have to say that, based on the amount of information that the campaigners brought to us, I do not think that the responses that we got in any way addressed the entirety of the concerns that were raised. There is a bit of work that still has to be done around the petition.

There is a lot of concern about a decision having been made when the consultation appears to have been so unsatisfactory. I am not saying that we as a committee have to agree this morning on what to do to raise that issue, but I do not think that we can close the petition. There is still life in it. We could put it in the legacy paper, to ask the next committee to continue looking into the matter, because lessons have to be learned. Even if we cannot get the decision overturned, there must be some understanding of why there were so many concerns about how the consultation resulted in the decision that was made and left so many people in the community affected by and dissatisfied with that decision. It is not possible simply to say, "Well, that's the end of that. We didn't get the questions answered."

A lot of those questions remain unanswered, and there is not much that we can do with the petition in a fortnight, but that is not to say that the Public Petitions Committee in the next session could not look at the matter again and consider whether more work could be done. It could even pass it to the next health committee, if that is ultimately what it wants to do, so that there could be some consideration of how that consultation was conducted.

A lot of the controversy around decisions made by health boards is not so much about the decisions themselves but about how the consultations have arrived at those decisions. We heard that with one of the other petitions on which we asked health boards to give evidence. They consulted and then just completely ignored the 80 per cent of the public who had responded and took the side of the minority. That kind of thing leaves people wondering about the point of consulting in the first place. There is a bigger picture that is not being addressed in the responses that we got. Do members agree with that?

**John Wilson:** I agree that we should put the issue in our legacy paper, but there is a piece of work that should be done prior to the next committee being established. The petitioner has raised a number of questions in relation to the responses received, and it might be useful to send on a copy of the response from the petitioner to the various organisations that she has cited and to ask them for responses to the issues that the petitioner has raised in the light of the responses that we have received from other organisations. Clearly, as you have indicated, convener, some of the issues that were originally raised by the petitioner were not addressed by the organisations that responded, so it might be worthwhile giving them another opportunity to respond, based on the petitioner's reply but also by reminding them of what the original petition was asking for. That would form the basis for future consideration by the next committee.

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

**Members** *indicated agreement.*

**The Convener:** In that case, we will keep the petition open on those terms and pursue it in the way that has been suggested, and we will get it into the legacy paper for future consideration.

That concludes our public meeting. If members would like to stay on to get more information about yesterday's event, I can brief them now. If anyone needs to leave, feel free to do so. I close the meeting.

*Meeting closed at 10:57.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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