



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 2 March 2017

Session 5



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PUBLIC PETITIONS COMMITTEE

4th Meeting 2017, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Angus MacDonald (Falkirk East) (SNP)

COMMITTEE MEMBERS

*Maurice Corry (West Scotland) (Con)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Paul Gray (NHS Scotland)

June Loudon (Grandparents Apart)

Maureen McVey

Scott McVey

Shirley Rogers (Scottish Government)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Public Petitions Committee

Thursday 2 March 2017

[The Convener opened the meeting at 09:19]

Continued Petition

Whistleblowing in the NHS (PE1605)

The Convener (Johann Lamont): I welcome everyone to the Public Petitions Committee's fourth meeting in 2017. I remind members and others in the room to switch phones and other devices to silent.

Agenda item 1 is a continued petition. We will take evidence on petition PE1605, by Peter Gregson on behalf of Kids not Suits, on whistleblowing in the national health service—a safer way to report mismanagement and bullying.

At our previous meeting, we heard evidence from the City of Edinburgh Council, Public Concern at Work and Unison Scotland. This morning, we have the Scottish Government's director general of health and social care and the chief executive of NHS Scotland, Paul Gray, to give evidence. He is accompanied by Shirley Rogers, the director of health workforce and strategic change in the Scottish Government. I thank them both for attending.

A number of issues were raised at our previous evidence-taking session, so I suggest that we move straight to questions from the committee. I ask for the witnesses' views on the level of understanding about the purpose of the whistleblowing helpline. Can its use be conflated with raising a grievance and is that an issue for the national health service?

Paul Gray (NHS Scotland): I will begin the answer and ask Ms Rogers to fill it out. We are happy to take your guidance on the length of answers.

I am certain that awareness of the national confidential alert line could be improved. There are no circumstances in which awareness is perfect, but it is fairly broad. The line is certainly known about by all the NHS boards and by the employee directors on the boards, who represent the interests of the trade union side of the partnership. We seek to make staff aware of the line through a number of routes.

You asked whether the line's use can be conflated with raising a grievance. I understand that, in law, a grievance needs to be dealt with

between the employee and the employer so, if someone phones the national confidential alert line and expresses a grievance, it will be referred to the employer. If there were other aspects to the person's concerns, that would not be the only route that the national confidential alert line could take. For example, it can also refer matters to Healthcare Improvement Scotland, and it has done so.

If you would like more detail, Ms Rogers can provide that.

Shirley Rogers (Scottish Government): There are issues in which whistleblowing and grievance come together. People feeling aggrieved at work and their having concerns are, by their nature, not things that are always easy to separate out completely. There are therefore times when those matters have to be taken as a whole. Sometimes, the response to an employee raising a whistleblowing issue can lead to their having a sense of grievance or feeling that the matters were not dealt with in the manner that they would have wished in the first instance. As a general principle, when people are unhappy about something, it is possible for such issues to become conflated.

A lot of work has been done to raise awareness of the line. Public Concern at Work has attended the NHS staff conference, for example, and has issued small, pocket-sized guides to the line and various other materials. The honest answer to the convener's question about awareness is that it has grown over time.

The Convener: Is there an issue? What is the judgment in a case in which somebody feels that they are being asked to do something that may be to the service's detriment? Although they are flagging up something broader, that is about them as an individual and they will be concerned to protect themselves. They do not want to be identified in case that creates greater problems for them. What advice would be given to a person in those circumstances?

Paul Gray: That would depend on the nature of the person's concern. If the concern was about a clinical matter, it would have to go through the appropriate clinical governance—otherwise, we would be breaking the chain of accountability.

It is probably difficult to answer the question without a specific example, and I am more than happy to take any specific examples. I am not trying to dodge the question, but the answer very much depends on the facts and circumstances of the individual case. If you prompted me to think about a case in which a member of staff was concerned about their immediate line management, for example, and was therefore—to be simple about it—afraid of what might happen next, we would urge such staff to contact their

trade union representative or another appropriate representative in all circumstances. Escalation is available in board governance and, ultimately, there is a whistleblowing champion on each board to whom matters can be addressed. Does that answer the question?

The Convener: Yes—that is fine.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. In the previous evidence session on the petition, the chief executive of Public Concern at Work indicated that, although she did not disagree with the petition's aims, she noted that they are not within the terms of the current contract for delivering the national confidential alert line. What are your views on that?

Paul Gray: I think that Public Concern at Work was referring to the independent assessment of a case. In the consultation that we have done, an independent national officer was proposed. The favoured option in responses to the consultation was that such a role should rest with the Scottish Public Services Ombudsman.

It is clear that, ultimately, that would be a matter for the Scottish Parliamentary Corporate Body. However, to be straightforward about it, it is recognised that an ultimate recourse to an independent national officer is worth having.

Rona Mackay: Is that recognised in the health service or just generally?

Paul Gray: It is recognised by me as the chief executive of all the national health service, by ministers and by the health workforce director. We agree that such a role ought to be put in place.

Rona Mackay: How likely is it to be put in place?

Paul Gray: I am clear that it should be, and ministers are clear that it should be. As I said, it is ultimately a matter for the Parliament to agree on. Given that the role would be for the ombudsman, it would also matter whether the ombudsman was content to take it on, and we are working closely with it on that. I am confident that we should establish an independent national officer and I would be disappointed if we did not.

Maurice Corry (West Scotland) (Con): First, I declare an interest: I am a past chairman of the Argyll and Bute integration joint board, which I stood down from in August last year.

The Scottish Government's submission in October confirmed that the contract for the alert line had been extended until June this year to ensure the continuation of a cost-effective service. Given that the most recent six-month review, which was for the period from August 2015 to January 2016, reported a 75 per cent decrease in

the number of calls to the helpline since it was established, what are your views on whether the service is not just cost-effective but effective and trusted?

Shirley Rogers: We are on record as committing to an on-going call line as part of the remedies that are available for whistleblowing across the NHS. At this stage, we are not committed to PCAW or any individual supplier in that process. As you have identified, the contract will end in June, and we will undertake the normal procurement processes until then to look at who else might be able to provide the facility for us.

We receive six-monthly reports from PCAW, and some of the usage numbers are of interest to us. One important message for the committee to hear is that, although the national confidential alert line is an important part of the remedies, it is only one part.

We have been working for two or three years on implementing the NHS Scotland workforce strategy, the first component part of which is about values and culture. We are seeing some indication that those values and the approach to the culture of patient safety are starting to be embedded in NHS board activity. We have some support in that space. The policies and procedures in the partnership information network guidelines, which some committee members might be familiar with and which we have established across NHS Scotland, are also starting to give a more consistent approach to how such activities are rolled out across Scotland.

Your point about whether people are actively using the alert line is well made, but that is not the only indicator of the temperature of whistleblowing culture or support. I will say honestly that we need to do much more to make the service aware of the facilities and remedies that are available and to see that those processes are brought to bear consistently well when they are required.

09:30

Brian Whittle (South Scotland) (Con): To follow on from that question, there are concerns about the effectiveness of the current helpline facility. Issues about low usage and lack of confidence in the system have been widely reported in the media—including Mr Gray's piece in *The Herald* in September last year.

What sense do you have of whether confidence has increased among staff in recent months? How do you measure or assess staff confidence in the system? You mentioned culture. Do you agree that the NHS needs to have an open learning environment when things go wrong so that people feel able to come forward?

Paul Gray: I will address the question about confidence in using the service and the other remedies that are available, which Shirley Rogers mentioned, and then go on to the point about having an open learning culture. Every year, boards have a review, which is sometimes a ministerial review and is sometimes led by officials. At the annual reviews that I attend, there is always an opportunity to meet the partnership forum. That is one mechanism—although not the only one—through which we hear directly from the partnership about how staff in the board are feeling and about any issues that they want to raise with me or the minister. I sense that there is a degree of confidence in those arrangements but, as I said in reply to the convener, we can of course ensure that they are more widely known about and understood.

The data is hard to interpret, but it may suggest that the spike in calls at the beginning was from people who had been bottling up issues because they had felt that there was nowhere to go with them until the national confidential alert line met that need. The reduction in calls might not indicate a loss of confidence in the system itself.

Shirley Rogers might want to add something before I go on to the point about an open and transparent culture.

Shirley Rogers: It would be difficult for me to come here and say that everyone is confident about the system, because people's confidence depends on the response that they receive and how closely they feel that that response addresses the issues that they have raised. We began the evidence session with a question about conflating issues; sometimes it is impossible to separate things out for people in a way that is as optimal as they would like. Sometimes issues are raised and dealt with appropriately and sometimes the response is not as optimal as it should be.

It is fair to say that we have put a great deal of investment into partnership working in the NHS in Scotland and in our staff governance arrangements, and some of that has been externally validated. Although that has taken the agenda forward, for some individuals those relationships have not been helpful. In addition, sometimes the relationships between individuals and their representatives are not ideal.

I will not say that I think that the system works perfectly every time. There is a huge investment in making people aware of whistleblowing. The issue was not talked about in any setting 10 or 15 years ago, but there is increasing awareness of it and of what works. There is also increasing awareness of the effectiveness of listening. Often, individuals are looking for a process in which they feel that they have been respectfully, appropriately and considerately listened to. We are building that into

our leadership development capacity and our whole approach to how a modern NHS is managed and how people experience the workplace.

We have demonstrable evidence of that, some of which is externally validated. We have had a report on partnership working in the NHS by the University of Nottingham, which was complimentary about the work that had taken place. However, even that report recognises that there is still more to do. As we continue on this journey, we are continually trying to improve and learn from the situation.

Although that activity is taking place in boards, we are also addressing the issue in policy terms. It is my pleasure, although sometimes with sadness, that my role frequently involves meeting people for whom the system has not always worked as well as we might wish. It is helpful to policy making for us to learn from those experiences, too.

Paul Gray: Openness and transparency are a fundamental building block of improvement. We do not get improvement if we do not have openness and transparency.

The issue is how openness and transparency are dealt with and treated. If something very minor happens in the care of a patient, it is first fundamental that the patient is told and, secondly, it is essential to record the incident. The incident might be as minor as the wrong drug being brought—not administered, but simply brought. That is recorded as an incident of harm, although there was in fact no actual harm to the patient—there was potential harm, which is still recorded.

The issue is partly about how that plays out in the space in which it happens—such as a ward or theatre—and partly about how it plays out in public. I encourage people to make sure that any incident at all is reported and recorded. We can understand why, if the public discourse is that the number of incidents of harm has rocketed, that is an external inhibition on people being transparent, although we are trying to record what actually happened and it is not the case that harm levels have rocketed. If recording is met defensively, people internally will be less inclined to do it; if it is met openly, with a view to learning from incidents as part of people's professional and personal development, they will be encouraged to do it again.

There is of course the duty of candour, so people are required to report things. I am absolutely clear that, although it might mean that it looks as though incidents are increasing when they are not, proper reporting, openness, transparency and recording are essential. I have no doubt about that and, if a senior clinician were here, I am certain that they would say the same.

Brian Whittle: Do you have national guidelines on recording and reporting? I am thinking along the lines of a significant adverse event, for example. There seem to be huge disparities from one NHS board to another. Are there national guidelines on how such incidents are classified? Is there pressure on boards to push those numbers down?

Paul Gray: All that I can say is that there is not pressure from me to do that. I would not press people on what to call an event—if it is a significant adverse event, that is what it is. I would not press them to call it anything else. The only way that we will learn is by treating incidents with the appropriate level of seriousness.

I would be very happy to share with the committee the guidance that we have on those matters. It is too voluminous to go into in detail now, and some of it would require the advice of a clinician rather than my advice as a professional administrator. However, it would be of no difficulty to share with the committee the guidance on all those issues, if members would find it helpful.

Brian Whittle: In its written submission, Unison Scotland suggested that awareness of the helpline might be low because some concerns might be about normalised, low-level or regular occurrences, which some staff might not feel warrant a full-scale referral. What are your views on those observations? How do you think that they reflect on the current mechanism?

Paul Gray: First, to be simple about it, there is no such thing in my world as low-level bullying. It should not happen at all, anywhere. If there is a sense that something like that is being normalised, that is utterly and fundamentally wrong.

If the culture in a place means that certain things are tolerated, my view is that what you permit, you promote. If I, as a leader or a manager, permit something to happen, I am, in effect, promoting it. Again, I regard that as wrong.

We greatly value the partnership relationships and arrangements that we have with trade unions such as Unison. We work with them to ensure that awareness is raised and that, when people have what might seem to be low-level concerns, there is still scope to raise them. There is clear evidence that, when the workforce is engaged and feels valued, it will deliver better. There is an absolute line of sight between an engaged workforce that feels valued and the care that we provide to people. Ms Rogers can say a bit more about that.

Shirley Rogers: Our intent is that the right thing happens the first time and that the quicker there is resolution of a matter, the better. If Unison is alluding to something of a relatively modest nature being raised and resolved and therefore not reported, I think that there is an issue about

reporting, but we want the right thing to happen the first time. We have had conversations with the Royal College of Nursing, Unison, Unite and others about examples that they have of individuals who have raised concerns and had them immediately addressed by their line manager, so the concerns have been resolved and they have moved on. It is important that we are aware of those instances.

Going back to the point that the director general made, we need to be aware of issues when they arise and be able to fix them. In fact, we want boards to be responsive at every level of leadership within the organisation. If somebody raises something and says “I need X” and they get X, that is helpful. What we need to reinforce at every opportunity are the standards of conduct, behaviour and all the rest of it that are expected to apply in terms of our relationship with the boards and their relationships with their employees. Those are reciprocal things that are about not just what we expect from employees, but what employees can expect of the organisation that employs them.

Therefore, we want to hear about every instance. I could not agree more with the DG about there not being such a thing as low-level bullying. People are either bullied or they are not, just as a woman cannot be just a bit pregnant. If something bad is happening to someone in a place, we need to be able to respond to that quickly. The way in which boards can do that is by matters being safely and appropriately brought to people’s attention and resolved.

Angus MacDonald (Falkirk East) (SNP): To return to the issue of confidence, when we took evidence from the City of Edinburgh Council, it provided a positive impression of its independent external hotline facility and suggested that anecdotal evidence and feedback demonstrated good confidence and trust in that system. Prior to the introduction of the hotline, the council had received three public interest disclosures over an eight-year period. However, since the hotline was established in 2014, it has received 53 calls, 11 of which resulted in major investigations. That clearly indicates that there is confidence in that independent external hotline. I would be interested to hear your views on that.

Paul Gray: I have a couple of things to say on that. First, a number of reports by Healthcare Improvement Scotland have been published as a result of issues being raised by people through the kind of opportunity that you described. There is evidence that, through such means, issues are listened to and taken seriously.

Secondly, we have different arrangements for reporting instances of fraud, for example, which would not come through the helpline. I am not

saying that someone who was concerned about fraud could not contact the helpline—of course they could—but there are other arrangements for reporting fraud. Some of the issues that were identified in Edinburgh might have been dealt with slightly differently. However, Ms Rogers can provide more detail on the issue.

09:45

Shirley Rogers: That is a valid point. We are learning as we go with the whistleblowing helpline, and as I have said, we will review its effectiveness as we go forward to the next contracting round. It is one of a range of remedies. The NHS has a number of policies and procedures, such as the partnership information network guidelines, internal grievance procedures and NHS counter-fraud services, as the DG alluded to.

To date, Healthcare Improvement Scotland has looked at nine cases of potential concern that have arisen from the PCAW helpline. HIS has put fairly substantial weight behind some of those investigations to make sure that there are appropriate conclusions and that concerns are remedied. However, we are not finished yet, and the helpline is one of a range of remedies that we are developing. We believe that there is considerable merit in pursuing the independent national officer role and we intend to do that. Angus MacDonald asked how confident we are that we will do that. It is our intention to have a proposition for parliamentary consideration in a reasonable order of time.

Angus MacDonald: Which is?

Shirley Rogers: We hope to be in a position to consult by the autumn. We understand the additional assurance that might be given by the independent national officer role.

Rona Mackay: Are you aware of a culture of fear in the NHS, whereby people are afraid to whistleblow in case they are penalised? Have you considered alternatives to whistleblowing as a way of making complaints?

Paul Gray: I will start, then Shirley Rogers will follow on. One reason why I decided that it was appropriate to speak to the press about this—there was an article in *The Herald* and there were reports elsewhere in September last year—is that, as chief executive of the national health service in Scotland, I need to set the tone for our behaviour. I wanted to make it clear that, from my perspective, there is no place in which people should be inhibited, through fear, from raising concerns. I spoke to the press because I recognised that in some places there was some fear. I would not have done it if I had thought that there was nothing to fix. I accept that there can be some fear.

Sometimes the fear is well founded—in other words, people have had bad experiences and that causes them to think that they might have a bad experience again—and sometimes it is not very well founded and is just a vague fear that a person has that if they do or say something, something bad might happen. In either case, I want to continue to work with people, through the partnership arrangements that we have, to ensure that people can raise concerns without fear. That is why I said in response to Brian Whittle's question that I am pressing so hard on the issue of transparency.

At a very basic level, if people know that there is a way to do something that is clear and understood, that is a lot easier than having to work out what to do. Ms Rogers will be able to speak eloquently about the PIN guidelines that are in place. My point is that there needs to be something that is locally visible that tells people how to raise a concern, if they have one. If someone has a concern, having to work out what to do with it can itself act as an inhibition.

I am seeking to set the standard and to be clear that bullying and harassment in any form whatsoever has no place anywhere in the NHS. Have I completely fixed the problem? No, I have not.

Rona Mackay: I will press you on that. You said that some fears are “well founded”. What action do you take when you know that they are?

Paul Gray: Let me give you an example. Obviously, I cannot talk about individual cases, but this example is sufficiently anonymous for me to believe that it is useable. An MSP approached me on behalf of a constituent and put before me some documentation about that constituent's experience. I read that documentation and gave it to Shirley Rogers, the director of workforce, and Fiona McQueen, the chief nursing officer. They engaged with the health board in question and with the nurse director in question. As a result of that, the person's concerns were taken up and addressed appropriately—I am saying to you very explicitly that, up until that point, they had not been. That person was not treated respectfully and their concerns were not heard properly. There were many factors—there are two sides to every story—but the bottom line was that the person's concerns were not properly heard and, when they were, the situation was resolved satisfactorily.

Rona Mackay: Did that result in a member of staff being disciplined?

Paul Gray: No. The member of staff had been experiencing issues that affected their ability to perform their work effectively, and the result of the process was that those issues stopped being treated as trivial and secondary and were treated

as issues that ought to be addressed and resolved. Appropriate professional development and training were also put in place in that area so that staff generally could understand the appropriate way to deal with those issues and the appropriate way to listen to concerns as they were raised.

Shirley Rogers: I personally have been involved in a number of ways in issues where remedial action has resulted in disciplinary action, ranging from guidance to dismissal.

I want to talk a bit more broadly about the question of a culture of fear. I have been an NHS manager in NHS Scotland for well over 20 years. NHS Scotland is a big place, with 156,000 people and 22 health boards across our geography. It is difficult to make a sweeping statement when we talk about culture. After all, the culture in south Glasgow is not the same as the culture in north Glasgow, never mind the culture in Glasgow versus the culture in Orkney. Therefore, we need to be culturally intelligent and sensitive to the circumstances.

That said, we have been clear about the standards that we expect in NHS Scotland. We have an internationally regarded workforce strategy, and the first of only five elements of that strategy is about culture and values and how we behave to each other in a modern workplace in a way that is supportive of people who have a right to expect to be treated in a particular way.

We review all our employment policies in light of the everyone matters strategy and in light of those values and behaviours, and we learn from the experiences of individuals who talk to us about their experiences. Over the past year, we have been focusing particularly on leadership and management development activity. As committee members will be aware, leadership and management development has been an issue for the NHS in Scotland. We had a target to reduce managerial costs where we could and, as we have been doing that—and I should say that we have been very successful in reducing those costs—we have been working hard to improve the level of managerial and leadership behaviours and the quality of that input. We have been doing a lot in that space.

We have also listened to other voices. We have heard from trade union representatives and experts in the field, and a variety of others have shared with us their experiences of how they are managed in the NHS. We have learned from all that. I have shared a platform in a number of forums with individuals and with organisations ranging from the royal colleges to Stonewall and various others to talk about how we create or support the kind of environment that we want. At its best, the environment here is world class.

However, it is not at its best everywhere, and we have been doing a lot in that space, too.

Members will have seen from our evidence that we have been investing around the board table to increase understanding at governance level of boards' responsibilities in this regard. We have introduced the concept of board champions, which has landed extremely well in some places. In others, however, there is more work to be done to make sure that people are confident about the roles.

We also have more to do in telling the successful stories. If we are serious about shifting the culture, we need to have messages to demonstrate that people who have raised concerns have had those concerns appropriately and satisfactorily addressed. We have examples of that, but they are not as complete as we would want them to be, to allow us to talk about the process in a way that would give people confidence in it.

I do not need to tell the committee what it takes to be a learning organisation, as I am sure that you will be more than aware of that, but all the evidence on how to create, support and develop learning organisations points to the need to change fundamentally the relationship that organisations have with their staff in the area of blame. That is where our efforts are targeted. When we talk about the alert line, our champions, our PIN policies and procedures and the independent national officer, we recognise that, in order to shift the culture, it will take a number of initiatives working together to make sure that we always make the response that our workforce deserves.

Maurice Corry: On the integration joint boards, which, as Mr Gray knows, I have a bit of experience of, Tam Hiddleston of Unison Scotland has expressed concern that the boards create issues for whistleblowers in knowing who to approach, as local councils and health boards have vastly different terms and conditions and policies. How would you address those concerns?

Paul Gray: An employee of NHS Scotland can—and should—use their employers' policies. Obviously, I cannot speak for local authorities but, similarly, I would expect local authorities' staff to do the same.

Clearly, as integration proceeds, people will be working closely together, and an incident might become known to two people, one of whom works for one employer and one of whom works for another. Both employers might need to think about such incidents arising. However, the route that any employee can take remains unchanged even if they are working in an integration partnership.

Shirley Rogers: Building on Mr Gray's response, I think that he is entirely right to say that an NHS Scotland employee continues to enjoy and be subject to NHS terms and conditions. Similarly, if we come at the issue from a local authority perspective, we will see that those staff are subject to the authorities' terms and conditions.

In reality, most people's experiences of what happens when things go wrong are determined by the first response that they get. Therefore, if someone raises a concern, we need people to be more confident about the process and not simply to ask what terms and conditions the person is subject to. We are working carefully with the chief officers—given Maurice Corry's background, he will be aware that some have a local authority background, some come from the NHS and others come from elsewhere—to ensure that they all have an understanding of the terms and conditions that pertain, so that their first response is appropriate and supportive.

Maurice Corry: I fully understand that employers face that issue in relation to local authority contracts and NHS contracts. Does that have some bearing on the position? Does it cause confusion and lead to a lack of people coming forward?

Paul Gray: I do not have the evidence to suggest that that is so, but it is difficult to say that something is not so. However, in the early stages in the integration partnerships' establishment, I was asked by the partnership forum at an annual NHS board review if I would not simply impose the partnership arrangements that apply in the NHS to the integration partnerships. I said that I would not do so, because imposing arrangements on anyone is not a good way to get them to accept them or to ensure that they benefit from them.

We are finding that, in a number of the integration partnerships, the arrangements that we have in the NHS are, as it were, being drawn forward into the integration joint boards. I genuinely welcome that, because it is of benefit if people can have access to one set of partnership arrangements when they are at work. However, my view remains that imposing arrangements on people who work for other employers is not how we gain their confidence.

10:00

Maurice Corry: I want to drill down into that. I am not saying that you should impose the partnership arrangements—I fully understand where you are coming from in that respect—but is that failure not leading to confusion and thereby denigrating the reporting system?

Paul Gray: No, I think that the opposite is true. There is no circumstance in which an employee, regardless of whether they are employed by a local authority, a health board or one of our third sector partners, cannot raise a concern. It is not the case that the NHS partnership arrangements not being in place mean that staff cannot raise concerns. I would be more likely to damage the prospects of people having confidence in the arrangements if I were to impose them than I would be if I were to put them in place following proper negotiation.

Ms Rogers might want to add to that.

Shirley Rogers: I will say a few things about how we have been seeking to exert influence in that space. As committee members will understand, we are talking about not only employees of local authorities and the NHS; third sector and independent sector organisations and all sorts of other people get involved in that space.

There are two things that it might be useful for the committee to understand. First, the NHS has a methodology for looking at employees' experience at work called iMatter, which was developed in concert with an academic institution—the University of Dundee. It is a piece of work that through self-diagnosis by individuals and teams, looks at how people experience their life at work. It is held in high regard and has been rolled out to good effect across the NHS in Scotland, and we have been able to share it with partners across the IJB landscape. A large number of IJBs are using the same methodology, and four local authorities are in discussion with us about how they might use what has been quite a useful tool across the whole of their workforce.

The second thing that it might be helpful for the committee to appreciate is that, before we put in place the IJB landscape, we set up the human resources working group, which is looking at the HR implications of an integrated service delivery process that uses employees from different organisations. The group, which I previously chaired, has been looking at the issues and seeking to share experience and methodologies. We would be the first to acknowledge that the NHS is not necessarily the best at everything. We have shared methodologies on job evaluation and workforce planning, and we have looked at things such as staff surveys, the "Taking the temperature" reports, whistleblowing and various other bits and pieces.

Maurice Corry: That is fine. Thank you.

The Convener: We have no more questions. Thank you very much for your evidence, which was useful.

We must now decide what action we want to take on the petition. It has been suggested that we

refer it to the Health and Sport Committee, on the basis that it is holding an inquiry on NHS governance called "Creating a culture of improvement". It seems that the discussion about whistleblowing would fit comfortably into that. Is that agreed?

Rona Mackay: I think that that would be the right road to go down.

The Convener: If we were to refer the petition to the Health and Sport Committee under rule 15.6.2, it would not come back to us, but I think that we have probably come to the end of our consideration of it. The evidence from this and previous sessions would be provided to the Health and Sport Committee. If members have no other suggestions, I will ask whether the committee agrees to that proposal. Are we agreed?

Members *indicated agreement.*

The Convener: I again thank the witnesses for their attendance. We really appreciate your taking the time to meet the committee and giving very full answers to our questions.

I suspend the meeting briefly to allow for a changeover of witnesses.

10:04

Meeting suspended.

10:06

On resuming—

New Petitions

Child Welfare Hearings (PE1631)

The Convener: Agenda item 2 is new petitions. The first new petition that we will consider is PE1631, by Maureen McVey, on child welfare hearings. We are joined by Maureen McVey and June Loudon, the secretary of Grandparents Apart UK, as well as by Scott McVey. I welcome you to the meeting and invite Maureen to make an opening statement of not more than five minutes, after which we will ask questions.

Maureen McVey: I thank the Public Petitions Committee for giving me the opportunity to discuss my petition. I am calling on the Scottish Parliament to urge the Scottish Government to change the laws that govern the recording of discussions at child welfare hearings so that presiding sheriffs have access to such records. My petition is lodged under the auspices of Grandparents Apart, of which I am a member and who, at their heart, want what is best for our children in family disputes.

Although the child welfare system has its merits, the recording of the hearings would benefit all users. I mean no disregard, but it may be that not everybody here knows that a child welfare hearing is different from a children's hearing, and our comments are on child welfare hearings. Grandparents Apart has seen how families are affected by how the child welfare hearings system works and how others have been affected by their experience of it. We see how the system could be improved for children and how time and costs could be reduced for the benefit of all concerned. It is important to note that only 2 per cent of contact cases go to court.

It is evident that changes are progressing in the Scottish justice system, and that is positive. Changes take time, and the members of Grandparents Apart welcome change. The recording of minutes in the child welfare hearings system, which my petition calls for, should be part of the change. At present, there is no method of documenting what has been discussed at a child welfare hearing.

I will give a few examples of how court costs and court time would be reduced and how children would benefit from the recording of child welfare hearings. In many cases, what has been discussed during a previous child welfare hearing becomes an issue for the sheriff, and he or she then has to discuss the points with the relevant parent again. If hearings were minuted or recorded, the information would be available.

Also, without recording, there could be a pattern of false information being presented or of obstructive behaviour that could continue unchecked. The sheriff may note that one parent has been obstructive and that their behaviour has encroached on the court's time, and they may suggest that there will be serious repercussions if it happens again. Sadly, however, in our experience, the behaviour is allowed to continue when, at a following hearing, a different sheriff is unaware of what took place at the previous hearing. If hearings were minuted or recorded, the information would be available to the sheriff.

A parent's legal team may try to discredit the other parent through erroneous information provided by their client, and the presiding sheriff may inform their legal representative that they have a duty of care to their client. However, the next child welfare hearing may have a new legal representative and a new sheriff who is unaware of what has gone on before. Again, if there was a note of that, it would promote expediency and the child welfare hearing would not take so long.

If a legally aided parent who had been granted a motion failed to turn up to court or their legal representative was late and then deviated from the motion, that would be highlighted in the minutes. Any pattern of obstructive behaviour in the past would be shown in the minutes or recording. That would happen according to article 3 of the United Nations Convention on the Rights of the Child, in the child's best interests and in order to have the best possible system.

In another scenario, a client might move from one sheriffdom to another, and the only information that would be available to the sheriff would be about contact via the interlocutor, which is all that you get after a child welfare hearing. The new sheriff would have to elicit why the person had moved court and what the circumstances were, and the new legal rep would take up valuable time that could be used to discuss contact issues. Again, that pattern of obstructive behaviour would be shown in the minutes or the recording.

Each of those scenarios has a detrimental effect on court time, court costs and—most important—the child. As decisions get delayed, the legal costs for parents increase, and that can have a ripple effect on children. Those scenarios have been experienced by both our legally aided and self-funded members. As I have said, having minutes or recordings that show what had been discussed would, I think, be an important way of letting people know what has happened before.

On 26 January, I was informed by Mrs Anne Hampson, policy officer at the Scottish Civil Justice Council—some of you might know her—that the SCJC family law committee had been

actively considering case management in sheriff courts with regard to family cases and that its findings would be considered shortly. Indeed, just the other day, the present secretary of the family law committee, David Ross, informed me that the committee is moving forward with this.

Many big departments in the justice system are looking to move forward and bring innovative practices into Scotland's legal system. All of that takes time, but I hope that all those departments will continue to enhance the court system and ensure that it encompasses best practice in all forms of law, especially the field of family law, of which child welfare is a part. I know that any change to civil court procedures requires a policy decision by the Scottish Government and a subsequent change in legislation. As the wish expressed by Lord Gill and the present Lord President, Lord Carloway, for a fairer and more effective justice system is taken forward, I hope that that review will look at the use of digital innovations in the child welfare hearing system in order to support children and families better.

The Convener: Thank you very much. I appreciate your explanation.

Do I understand from what you say that a child welfare hearing can take place and there will be no evidence of what was discussed? What does the sheriff get? Do they just get a note that the meeting took place?

Maureen McVey: Yes. They get a piece of paper called the interlocutor, which discusses only the decision made by the sheriff about contact. It will say, for example, that one parent gets this number of days, the other gets that number and so on. A note can be appended to the interlocutor if someone asks for it, but that does not always happen. Whatever has been discussed at the child welfare hearings is not mentioned on that piece of paper; it just sets out the contact issues, times and all the rest of it.

The Convener: There is nothing about patterns of behaviour that might be perceived as blocking or whatever.

Maureen McVey: No.

The Convener: Do you know whether other types of hearings—say, tribunal hearings—are minuted or recorded as a matter of routine? Is that unusual? Are child welfare hearings different from other tribunals, or is that just the norm?

Maureen McVey: I think that they are different in that they are heard in a closed court and only the parents, their legal representatives and the sheriff are present. No one else is there. Children's hearings are slightly different in that they are held somewhere else, and there is a table with everyone present. I assume that they are

minuted, but I am not certain. I am not aware of any other hearing in which the proceedings are not minuted.

The Convener: Is it the case that the hearing takes place in a closed court because it is dealing with a child?

Maureen McVey: Yes, that is my understanding.

Rona Mackay: Good morning. Coming back to that last point, I have to admit that I am a former member of the children's panel, and I know that the children's reporter takes a note of everything that happens and that after each hearing all the notes are thoroughly written up. A record is always kept.

As a result, I am really surprised to hear what you have said. What method do you think should be used to record the hearing? Should it be video or audio?

Maureen McVey: I think that it should just be recorded using information technology.

Rona Mackay: So even a digital audio recording would do.

Maureen McVey: Yes. I do not know whether it would be more beneficial to have it videoed. However, I know that there was an adoption case where a videolink to Melbourne was used, and Lord Gill suggested that, if that could be done, videolinks and recordings could surely be used in Scotland.

10:15

Rona Mackay: In your experience of dealing with court staff, has any of them mentioned that it would be good to have a record in that way, or is it just accepted practice that it does not happen?

Maureen McVey: It is just accepted practice. I know that our members and Grandparents Apart have mentioned recording, but I have never heard anybody in the legal profession or any court staff mention it at all.

The Convener: You said that somebody can make a request for a note to be attached to an interlocutor. Who would make that request?

Maureen McVey: June Loudon can speak about that, as she had experience of it with one of the members.

June Loudon: If someone has a particular concern, they can ask for it to be noted. However, if they do not ask for it to be noted or do not know who to ask, it is not noted and the concern bypasses whoever is new in the next child welfare hearing. So, the same information is gone over constantly, which wastes time in the meetings. It is

a cost and time issue that delays decisions being made about a child.

Brian Whittle: Good morning. Why do you think child welfare hearings are not currently minuted or recorded?

Maureen McVey: It is probably because of confidentiality, but I am not sure. The sheriff usually takes the views of both parents, but they sometimes do not—it depends. I think that recordings are not used because of confidentiality, but I think that nowadays recording should be used and that confidentiality could be covered by names not being used. If minutes were taken, names and so on could be redacted. I do not see why confidentiality or data protection should prevent recordings being made or minutes being taken.

Brian Whittle: Are you calling for minutes to be publicly available? Or should they be available just in the justice system?

Maureen McVey: They should be available just in the court system.

June Loudon: So that there is a continuous information stream.

Maureen McVey: So that the sheriff is aware. Some members of Grandparents Apart have dealt with five or six different sheriffs when going to court. A sheriff who is continuing a case does not know what has happened before, apart from what is in the interlocutor. Perhaps sheriffs write some notes as a record, but we are not party to that. As far as I am aware, the only record is the interlocutor. I know of a case where a family moved to a different sheriffdom and the sheriff had no explanation of what had happened in the case previously and there was nothing in front of him about it. I think that minutes would be helpful to sheriffs and helpful all round in the interests of being open and transparent.

Angus MacDonald: Good morning. Your petition notes that the sheriff court ordinary cause rules address issues of confidentiality. Can you explain more about what confidentiality issues might arise as a result of the action that you are seeking?

Maureen McVey: The confidentiality issue might be around what might happen when a child gets older. We do not know what will happen in the future with contact cases, because they go on so long. A child in the future might want to discover what happened when they were younger and might request notes of the case for that reason. I am not 100 per cent certain, but I think that that is the basis for the confidentiality.

Angus MacDonald: After you raised the point about the ordinary cause rules, the SCJC

suggested that you should seek an update from the Scottish Government. Did you do that?

Maureen McVey: I did that by speaking to David Ross. I could not see the information in the minutes on the webpage so I contacted the person who I thought was the secretary and was informed that the secretary was now David Ross. He told me that they had been discussing the child welfare issue and that he would send me some information. I think that that work is only at the second phase just now. However, that conversation was just yesterday, so I have not received that yet.

Maurice Corry: Good morning, ladies and gentlemen. We have been discussing confidentiality in the last few minutes and, in relation to that, could you explain a bit more about who you think should be able to access the meeting records?

Maureen McVey: It should just be the sheriff who is hearing the case who should access the records. Do you mean access the records to provide him with information prior to making a decision?

Maurice Corry: Yes.

Maureen McVey: It should just be the sheriff, so that he is aware of what is happening, and maybe the lawyers, too.

Maurice Corry: In a continuation, or situations like that?

Maureen McVey: Yes, but I do not think that the information should be common knowledge.

Maurice Corry: Right, so you think the confidentiality should be at that sort of level. Do you all agree with that?

June Loudon: Yes. The aim is to enhance the process, speed it up and make it easier for everyone concerned by reducing the repetition and lack of awareness.

Maurice Corry: Right. Mr McVey, what do you think?

Scott McVey: Recording would be purely for continuity to assist the sheriffs in making an appropriate decision. It would also stop the groundhog day feeling that happens when you go to child welfare hearings and you go over the same accusations that have already been dealt with by a previous sheriff. All of that just delays the process and is costly for the courts. It does not help in getting the correct decision for the children.

The Convener: Is the issue that there is not a proper picture of what has already been argued, so that the sheriff comes to the case and perhaps the same story is told that has already been rebutted earlier on, meaning that things are

unnecessarily delayed in reaching an outcome for the young person and there is the frustration of someone arguing a line that has already been proven to be a nonsense?

June Loudon: It can be used as an intentional delaying tactic to hold off reaching a decision.

The Convener: This may not be directly related, but, in contact cases, if contact has not been maintained over a period and is therefore broken, any delay might raise the question of whether it is in the interests of the child to try to re-establish a relationship. Is that why a delay is sometimes used?

June Loudon: That is right. The longer the delay goes on, the harder it is for parents and children to re-establish a relationship. If one party or another wants to prevent that contact, this system can be used to do that, making it harder for parents to maintain or re-establish a relationship.

The Convener: So the fact that there is no record of the meeting creates an incentive to delay, because the same issue can be repeated, with the consequence that maintaining contact is then much more difficult. The issue involves more than just the information; it is about how the situation is used as an active strategy by some people.

June Loudon: Yes.

The Convener: Is it your suggestion that having a record would deal with that?

Maureen McVey: I hope that it would, yes.

June Loudon: It would also make it easier for courts and would greatly reduce costs.

The Convener: Have there been any conversations with sheriffs about whether they have a view on the issue?

Maureen McVey: No, but I contacted quite a few agencies to find out what the process was. I have not spoken personally to a sheriff. I have spoken to the Law Society and various other people.

The Convener: I understand that you are connected with Grandparents Apart UK and that the organisation attended the Scottish Government's stakeholder summit on the forthcoming family justice modernisation strategy in October 2016. Do you know whether your concerns about child welfare hearings were raised in that meeting?

Maureen McVey: Yes, they were. June Loudon can speak about that.

June Loudon: They were not raised specifically. The issue of the recording of hearings

was brought up as potentially assisting with the issue of non-compliance with court orders, as it could create a picture for on-going court appearances and suchlike. That is just part of the bigger picture of the improvements that need to be made in order to speed up the process for the benefit of the courts and families.

Maureen McVey: June Loudon and other organisations were present at a meeting, which is available online, at which there was comment on child welfare issues. I am sorry, but I do not have information on that to hand at the moment.

The Convener: We can have a look at that, as well.

As there are no further questions, I thank you very much for your evidence. I think that people would agree that there is an issue. It would be interesting to know why discussions are not recorded, whether that is unusual, and the views of the sheriffs and others who manage the process. I do not know, but there might be an issue about whether something that is recorded must be tested for proof. There is an argument that people are using the fact that the proceedings are not being recorded as a means of creating further delay. If an incentive has been created in the system for that, we should be anxious about that.

Do members have suggestions about what we might do?

Brian Whittle: Obviously, there is a certain logic to what has been said. I would be interested in the views of the Scottish Courts and Tribunals Service, the Scottish Children's Reporter Administration and others on why the discussions are not recorded. That seems logical to me.

Rona Mackay: Yes. We should ask the Scottish Government whether the issue will be included in the family justice modernisation strategy. It is also important to write to the Scottish Courts and Tribunals Service, the Scottish Children's Reporter Administration, the Scottish Child Law Centre and the Sheriffs Association—all the bodies that are connected to the issue—to find out their views on what has been said and to try to elicit some information.

The Convener: It seems that a compelling case has been made but, equally, we might not have heard the other side of it. We could also contact the Children and Young People's Commissioner Scotland. There is quite a bit of work that we could do. Obviously, children's organisations and others might have an interest, too. What has been suggested will certainly give us information, and we can reflect further on the case that has been made.

I thank the witnesses very much for their attendance. We really appreciate your taking time to give us evidence on your petition.

I suspend the meeting briefly to allow the witnesses to leave the table before we consider the next petition.

10:27

Meeting suspended.

10:28

On resuming—

Concessionary Transport (Carers) (PE1632)

The Convener: The second new petition that we will consider is PE1632, by Amanda Macdonald, on concessionary transport for carers. Members have a note by the clerk and a Scottish Parliament information centre briefing.

The petition calls for free concessionary transport for carers, and the petitioner has highlighted the financial difficulties that many carers face, the limits that are placed on their social lives, and the impact that that has on mental health.

Members will see from the SPICe briefing that it is estimated that in Scotland there are 759,000 adult carers aged 16 and over and 29,000 carers under the age of 16. The SPICe briefing also explains that the existing concessionary travel scheme is available to people aged 60 and over, and to disabled people.

There is, of course, provision for so-called companion cards, which eligible companions can use when they assist a person who is eligible for concessionary travel. Those cards can be used for journeys that commence and terminate at the same locations that the eligible person who is being assisted will be at.

Do members have any comments or suggestions for action to take on the petition?

10:30

Brian Whittle: Last year, I attended a young carers event that included a round-table discussion at which it was highlighted that young carers have to pay out of their own pocket while they are working for the person who is being cared for—for example, if they have to get on a bus to go and collect a prescription. It seems to me that it would be a logical, and not costly, step, in those circumstances, to allow them free transport. I understand that it would be really difficult to apply that across the whole of the care system.

The Convener: We know that some carers have to give up work in order to look after the person whom they care for, so their financial and emotional wellbeing is affected by being a carer. We also know that some young people take on caring roles. Would there be an issue about identification of those carers?

Brian Whittle: I think that there would be, but that does not negate the real-life problems for people in that situation. Identification should not prevent our looking at the problem, especially in the case of young carers. If someone who is on welfare payments has to pay out a few pounds here and there every time they have to go out and pick up a prescription or accompany the person whom they care for, that will have an impact. That should not happen.

The Convener: Okay. Are there any other views?

Rona Mackay: I note that, in 2015, the then Minister for Transport and Islands, Derek Mackay stated that

“over 153,000 cardholders aged 16-18 and young full time volunteers (up to age 25)”

were

“entitled to concessionary bus and rail travel throughout Scotland.”

That is important. I am not saying that it means that we should not inquire again and ask for an update on the situation for young carers or carers in general, but that was quite a robust response from the minister two years ago.

Angus MacDonald: It is worth bearing in mind that the Scottish Government has made a commitment to increase the rate of carers allowance to the same rate as jobseekers allowance. That said, if that extra money was just to go on bus fares, it would not be long before it was used up. There is clearly a strong argument here that we should put to the Government and ask for its view.

Maurice Corry: I agree with Angus MacDonald, but we also need to consider the impact on local authorities, given that bus passes come out of local authority budgets, so we will have to include the Convention of Scottish Local Authorities in the discussion. That proposal is included in the recommendations, and I support it. We have talked about rurality and different places and distances, but this is a much more local issue.

The Convener: I think that we want to contact the Scottish Government and COSLA. We also know from our papers that Enable Scotland has highlighted the issue of concessionary travel for people with learning disabilities. There are distinctions depending on the level of disability allowance that people are entitled to, so there are

a lot of complexities. I suppose that, as an initial cut, we are interested in what those organisations think and whether the matter is a priority.

I think that it would be worth our while to meet the petitioner informally to discuss the motive behind the petition and to get a better understanding of the need, from their point of view, that they believe the suggestion would address. I think that Brian Whittle identified some of it. We should probably also write to carers organisations. That includes Carers UK, but there are also Scotland-based organisations that might have a view, including the Coalition of Carers in Scotland.

Angus MacDonald: If we are writing to the Scottish Government, I wonder whether it would be presumptuous—I hope not—to ask it to provide a costing, given that it is estimated that there are 759,000 adult carers over 16 and 29,000 under 16. A rough costing would be helpful.

The Convener: Okay. I think we are saying that this is an interesting petition. We want to explore further the motives for it, what it is intended to address and whether the issues have been addressed in other ways in other places.

Maurice Corry: One thing to add is that we are also getting down to the realms of integration joint boards, because there would be an impact on them. Even the NHS is involved, so there is a compendium of organisations to contact before we can come to a decision.

The Convener: There is the issue of access to transport as well. The petition opens a number of issues that we have flagged up in other places. We will write to the Scottish Government, to COSLA and to the carers' organisations, and we will meet the petitioner to give her an opportunity to give her perspective. Do members agree?

Members *indicated agreement.*

Continued Petitions

School Libraries (PE1581)

10:36

The Convener: Agenda item 3 is—fittingly, on world book day—PE1581 by Duncan Wright, on behalf of save Scotland’s school libraries.

Since our last consideration of the petition, we have received submissions from COSLA and the petitioners. From those responses, it appears as though there is contrasting evidence about the accessibility and availability of e-reading materials. COSLA says that increased use of technology allows children to access a wide range of reading materials, while the petitioners claim that their evidence suggests that take-up is low, which can be due to costs, licensing restrictions and wi-fi availability in schools.

The COSLA submission broadly acknowledges the benefits of the action that is called for in the petition, but considers that those should be weighed against other factors, including the benefits from other areas of educational provision, the potential strain that would be placed on other local authority services and the “erosion of local democracy” by undermining the role of locally elected councillors in making budget decisions.

The petitioners suggest that having a national strategy will

“ensure the positive impact a professionally staffed school library can have on attainment and curriculum delivery”.

They add that there is, perhaps, a lack of knowledge about what a modern school library and librarian can offer.

Do members have views on what action to take on the petition?

Brian Whittle: I suggest a chat with the Cabinet Secretary for Education and Skills.

Angus MacDonald: The cabinet secretary has already agreed to appear here to give evidence on another petition, so that would be an opportunity to ask him to give evidence on this one.

Maurice Corry: As an elected member of a council that had such a decision to make, I declare an interest. From my experience, that is an issue for all local authorities, so we need to take it to a higher level—to the cabinet secretary. It has to go to that level.

Rona Mackay: I was going to suggest writing to the cabinet secretary for his view, rather than inviting him here, but as members have pointed out that he is coming to committee anyway, maybe we can ask about this matter at the same time.

Angus MacDonald: Yes—but he is not coming until later, in April, so writing may be useful.

The Convener: We can write to flag up the issues to him. The petition suggests that local authorities are making decisions in the context of constraints on their budgets. Do they properly understand the importance of a professional librarian in a school when people can access information in loads of other ways? The case that is made by the petitioner is that there is added value that local authorities may not appreciate. Many years ago when I was still a schoolteacher, the school librarian was really important. I suspect that a library will not look or sound the same now as it did then; in the past we would go to the library to get information that we can now get on our phones.

Those are the questions that we might want to explore further with the cabinet secretary and by looking at advice and guidance that has been given to local authorities. The petitioner seems to suggest that, in times of constraint, the library is seen as a luxury, whereas librarians and those who understand the system suggest that we should actively encourage the library in order that we can close the attainment gap. I think that those are the questions that we want to explore.

Rona Mackay: A wider issue is closures due to not enough people are using libraries. I am not saying that they should close, but that seems to be happening outwith schools. I think that asking the cabinet secretary for his view would be the way to go, initially.

The Convener: Okay. We will have a session with the Cabinet Secretary for Education and Skills on a number of issues; his multipurpose attendance will be most useful.

Brian Whittle: It will be a lovely morning for him. [*Laughter.*]

The Convener: Libraries are wonderful places. I think that we are agreed that we recognise that the issues are important. What is the information and advice that local authorities have on the importance of libraries? There will be an opportunity for us to explore that with the cabinet secretary.

Members *indicated agreement.*

Speed Awareness Courses (PE1600)

The Convener: The next item is consideration of PE1600, by John Chapman, on speed awareness courses.

In December 2016, we agreed to write to the Department for Transport for an update on its timescale for publishing its report on its three-year evaluation of speed awareness courses, on the

basis that we would defer consideration of the petition until the report was published. We also agreed to write to the Scottish Government.

The Department for Transport has indicated that its final report will not be presented to the project board until the middle of this year. An announcement on publication will be made after that. It is difficult to interpret precisely how long that might be, but it could be up to nine months from now before any findings are published. The petitioner feels that the Department for Transport are

“dragging their feet on this issue”.

The submission from Transport Scotland is a little more encouraging. It confirms that, in September 2016, the speed awareness course steering group advised the strategic partnership board that the introduction of speed awareness courses in Scotland would be worthy of a trial. It notes that Police Scotland was to develop a full options proposal, which will be discussed at the strategic partnership board meeting on 22 March. It was also noted that any pilot of such courses in Scotland should be supported by on-going evaluation and assessment as data becomes available.

I invite members' views on action to take on the petition. Does anybody have any comments?

Rona Mackay: I think that we have to wait for the report later this year.

The Convener: So are we waiting for the Department for Transport?

Maurice Corry: I think that we have to.

The Convener: Is there something that we could do in relation to the Scottish Government in the meantime?

Brian Whittle: We could ask for an update from the strategic partnership board, to establish what action might be taken. In the absence of progress, that is probably where the petitioner is coming from—that we will maybe push the Department for Transport.

The Convener: Okay. We can write to the Scottish Government to ask it for an update following the strategic partnership board meeting in March, and ask what action it is going to take to establish a trial. Perhaps we can ask the Department for Transport to keep us advised of when it will actually move on that question. I do not know what the difficulty is—from either the Department for Transport or the Scottish Government. It seems to me to be eminently sensible that, if we can do something to address the question of speed awareness, we should do so. I think that there have been advertisements on television recently, just highlighting—

Rona Mackay: It is about raising public awareness.

The Convener: I think that there is a public awareness campaign just now, although I am not sure by whom. That is encouraging, but it just does not feel to me as though it would involve anything horribly complicated to say that we should do something. We could maybe say to the Scottish Government that we think that the matter is important and we would like to have some sense of direction on it, if not some urgency. Is that agreed?

Members indicated agreement.

The Convener: We can agree to write to the Scottish Government and perhaps to ask the Department for Transport to keep us informed, but we agree with the petitioner that the matter could be moving with a bit more pace.

Armed Forces (School Visits) (PE1603)

The Convener: PE1603, by Mairi Campbell-Jack and Douglas Beattie on behalf of Quakers in Scotland and Forces Watch, calls for greater scrutiny, guidance and consultation on armed forces visits to schools in Scotland.

We have received a number of submissions since we last considered the petition, most of which express support for the action that is called for in the petition. The submissions have come from a range of organisations representing, for example, children's rights, faith communities in Scotland, the scientific community and parents of school-aged children. We have also received a response from the Ministry of Defence, which provides some information about activities in schools and makes the offer of a briefing for the committee. Skills Development Scotland has also provided a submission outlining how it works with the armed forces.

What are members' views on what action we might wish to take on the petition?

10:45

Rona Mackay: I am on record as supporting the petition. I would be interested to hear from the Cabinet Secretary for Education and Skills, or a minister, and from the Convention of Scottish Local Authorities, because the petition relates to schools and local authority control over schools. A large number of the submissions that have been received, including from the Educational Institute of Scotland, the National Union of Students Scotland and the Scottish Parent Teacher Council, agree with the petitioner. We should definitely keep the petition open while we get more information from decision makers. It is a big issue, and it must be looked into thoroughly.

Maurice Corry: I suggest that we accept the offer of a briefing from the Ministry of Defence. We can perhaps ask for senior officers from each of the services to come forward if we feel that the briefing is not detailed enough or that it does not come up to the standard that we want. We could have that as a fall-back.

The Convener: Okay. We want to hear from the cabinet secretary and COSLA, and we want to accept the offer of a briefing from the Ministry of Defence. At this initial stage, we recognise the very strong views that have been expressed by people who have responded to the petition. Although some folk wonder whether it is appropriate for the armed forces to go into schools at all, the petitioner is simply saying that there should be transparent guidance; that is the matter that we want to explore. We also thank all those who have responded to the petition and given us further information. Is that agreed?

Members *indicated agreement.*

Deaths by Suicide (Inquests) (PE1604)

The Convener: PE1604, by Catherine Matheson, is on inquests for all deaths by suicide in Scotland. We have received three submissions and a response from the petitioner.

The Minister for Mental Health supports the petitioner's call to extend the scope of the review under section 37 of the Mental Health (Care and Treatment) (Scotland) Act 2015 to include patients who are released from hospital or who are receiving care in the community under compulsory treatment orders. The minister has explained the process that has been followed to introduce the duty of candour procedure in health and social care settings under the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016. There appears to be a lack of support among stakeholders for expanding the section 37 review to include an inquest-type system. Those who have expressed views consider that that might be duplicative and would not add value. The petitioner considers it necessary, however, because the existing systems are too slow and inadequately address the complexities of suicide.

There is support among some stakeholders for the petitioner's suggestions on how to improve the suicide review process, including the guidance on who should participate in a suicide review. The existing guidance says that the chair

"should be sufficiently removed from the event".

In the petitioner's view, the guidance should explicitly require that the person be independent—for example, from another health board.

Do members have any comments or suggestions for actions?

Brian Whittle: We should write to Healthcare Improvement Scotland for information on how many health authorities are meeting the targets to commence suicide reviews within two weeks and to complete them within three months. We could also seek information on how bereaved families or carers can raise their concerns with HIS when they consider that the authorities are not learning from suicide reviews—particularly authorities that have been highlighted in findings by the Scottish Public Services Ombudsman.

The Convener: We found the petition compelling when it first came before us, so I hope that the petitioner feels that at least some progress is being made and acknowledges that the Government is extending the review to include people who commit suicide in the community while under compulsory treatment orders. That is progress, and I hope that the petitioner is encouraged by that.

We will write to Healthcare Improvement Scotland, asking about the meeting of targets and about how bereaved families or carers can raise concerns. Is there anything else that members think we should do?

Maurice Corry: I think that that will be sufficient.

Rona Mackay: We could ask the Scottish Government for the timescale of the section 37 review.

The Convener: We can also ask the Government for an update on the review. Is that agreed?

Members *indicated agreement.*

Diabetes (Continuous Glucose Monitoring Sensors) (PE1619)

The Convener: PE1619, by Stuart Knox, is on access to continuous glucose monitoring sensors. We have received responses on the petition from the Scottish Government and the Juvenile Diabetes Research Foundation. As members know, we have also previously agreed to undertake fact-finding engagement activities on the petition; arrangements are being made by the clerks.

Do members wish to seek further information in relation to the petition at this point? I think that we will get details of the engagement event soon, but seeking information would give us an opportunity to get a proper sense of the issues around care for people with diabetes that are driving the petition more generally.

Brian Whittle: I sit on the cross-party group on diabetes. There is not an awful lot of information coming out of it on access to glucose monitoring sensors. It is the old postcode lottery cliché—

access depends on where you live, so access is definitely something that we need to explore further.

The Convener: According to our notes, the Scottish Government has provided additional funding. The question is where that funding is going to go. Will it be split between provision of insulin pumps and CGM technology? The evidence that we are receiving makes a quite compelling argument that the technology is very effective. Should we ask the Scottish Government for details about that? Extra funding is clearly welcome, but how is it going to be distributed?

Brian Whittle: There is certainly compelling evidence from diabetes sufferers who have been on continuous glucose monitoring about the significant impact that it has had on their lives. However, with technology moving forward so quickly, the worry is that by the time someone reaches a conclusion, they have to learn something else.

The Convener: Do we agree that we will write to the Scottish Government in those terms and get details about the engagement event in due course?

Members indicated agreement.

Recycling (PE1622)

The Convener: PE1622, by Stephen Duff, is on making failure to recycle a criminal offence. Following initial consideration of the petition, we have received submissions from the Scottish Government, COSLA and the petitioner. The Scottish Government is not considering making failure to recycle a criminal offence, and COSLA does not support the action that is called for in the petition.

The Scottish Government and COSLA highlight work that is currently progressing through the Scottish household recycling charter, which is a joint initiative that is designed to introduce a consistent approach to recycling across the country. Financial support for the charter is being provided by Zero Waste Scotland, and the most recent information says that 23 local authorities have already signed up to the charter. Progress on it is being monitored by a steering group that is made up of relevant agencies, including industry representatives. The charter's effectiveness will be assessed by local government once it is more fully embedded.

The petitioner appears to welcome the move to standardised recycling methods, saying that it is "long overdue", but makes the point that the proposed penalties are

"urgently needed to change attitudes"

and that they will reinforce the central message about proper recycling.

Do members have any comments or suggestions for action?

Angus MacDonald: We all understand Stephen Duff's sentiments, as contained in the petition. I am sure that we would all like to see 100 per cent recycling rates sooner rather than later. However, the Scottish Government, COSLA and the individual local authorities—not to mention 5 million Scots—have to be given the chance to come on board with the Scottish household recycling charter before we go down the route of criminalising failure to recycle.

Zero Waste Scotland has indicated that support is available to local authorities, as the convener has mentioned, for educating the public. We should close the petition and allow the Scottish household recycling charter to bed in. Nine local authorities have still to sign up to the charter; we should encourage them to do so, but it would be premature to go down the route that the petitioner suggests. People should be allowed to come on board over the next few months and years.

Rona Mackay: I agree with my colleague. This is a work in progress, so it would be premature and impractical to go down the suggested route. I agree that we should close the petition.

Brian Whittle: On practicality, I do not see how what is suggested could possibly work, so I agree with my colleagues.

The Convener: We acknowledge the issue that the petitioner is wrestling with, which is the importance of recycling and the consequences for all of us if we do not recycle, but we also acknowledge that the Scottish household recycling charter—the commitment of the Scottish Government and COSLA to concentrate people's minds—is probably the right route, at this stage.

Maurice Corry: The deposit return system has been highlighted recently and there are other things, going forward. There are enough issues to bring the balance back, so I favour closing the petition because I think that such things can be achieved another way.

The Convener: Do members agree to close the petition, while acknowledging the issues and noting that it is a matter for the Scottish Government and COSLA, and that we would expect them to monitor closely the effectiveness of their charter and, perhaps, to revisit it?

Members indicated agreement.

Adultery (Definition) (PE1624)

The Convener: Our final petition today is PE1624, by Akri Jones, on the definition of

adultery. Members will see that we have received a submission from the Scottish Government and a response from the petitioner.

Members will recall that the petition is calling for the Divorce (Scotland) Act 1976 to be amended so that adultery is defined such that it can be committed between people of the same sex as well as people of different sexes. The Scottish Government's submission does not support what is being called for. The Government does not intend to consult or legislate on the issue during the current session of Parliament and believes that the issue was sufficiently explored during the passage of the Marriage and Civil Partnership (Scotland) Act 2014. The petitioner considers that the act is not human rights compliant and she considers that the issue should be explored by the Scottish Law Commission.

The clerk's note explains that the Scottish Law Commission will be consulting on its 10th programme of law reform, in the year ahead.

Do members have any comments or suggestions for action?

Brian Whittle: I do not think that adultery comes up in divorce cases any more.

The Convener: Does it come under unreasonable behaviour?

Brian Whittle: Yes—it comes under unreasonable behaviour and does not stand alone any more.

The Convener: The suggestion in the petition is that it must come up and that the definition of adultery is that it is something that happens between people of opposite sexes. That is, I presume, at the heart of the matter.

Another option that is open to the petitioner is to test in the courts whether the act is human rights complaint. That is not really a matter for the committee. Are there other means by which a marriage can be dissolved? The contention is that there are other ways in which unreasonable behaviour can be established so it would not be discrimination. That is a matter for the courts. The Government makes the point that the issue was discussed as recently as 2014; the Government decided not to take the matter forward.

The Scottish Government is saying that it will not consult or act on the issue, that it has been debated recently and that there are other options open to people in civil partnerships or same-sex marriages who want to get divorced.

Brian Whittle: We cannot go much further on the issue—we cannot do anything other than close the petition.

Maurice Corry: One could talk to the Scottish Law Commission in its consultation, as an individual.

The Convener: That would be a matter for the petitioner.

Maurice Corry: Yes—that is right. We should close the case. It is clear from the Scottish Government's submission that there will be no movement. It had obviously done the research in 2014.

The Convener: Do members agree to close the petition under standing orders rule 15.7, on the bases that the issue that is raised by the petition was considered recently during the passage of the Marriage and Civil Partnership (Scotland) Act 2014, and that the Scottish Government has no intention to consult or legislate on the issue in the current session of the Scottish Parliament? We can let the petitioner know that she can respond to the Scottish Law Commission's forthcoming consultation.

Members indicated agreement.

Meeting closed at 10:59.

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