



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Public Petitions Committee

**Thursday 29 June 2017**

**Session 5**



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**PUBLIC PETITIONS COMMITTEE**

**14<sup>th</sup> 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:**

Marion Brown (Recovery and Renewal)

Lord Carloway (Lord President of the Court of Session)

Dave du Feu (Spokes)

Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

David French (Spokes)

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

Michaela Jackson

Alex Neil (Airdrie and Shotts) (SNP)

**CLERK TO THE COMMITTEE**

Catherine Fergusson

**LOCATION**

The Sir Alexander Fleming Room (CR3)



# Scottish Parliament

## Public Petitions Committee

Thursday 29 June 2017

*[The Convener opened the meeting at 09:15]*

### Continued Petition

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

**The Convener (Johann Lamont):** I welcome you all to this meeting of the Public Petitions Committee. I remind people to switch their mobiles and other devices to silent.

At agenda item 1, we are dealing with a continued petition, PE1458, which calls for a register of interests for members of Scotland's judiciary. We will take evidence from the Lord President, Lord Carloway, who is accompanied by Roddy Flinn, the legal secretary to the Lord President. I thank you both for joining us this morning.

We have copies of a number of recent submissions, including the most recent correspondence from Lord Carloway. In order to make the most efficient use of our time, I suggest that we move straight to questions from members. I will open the questioning.

I want to explore some of the issues that you have identified as potential risks or inhibitions to the administration of justice should a register of financial interests be introduced. One of those is the risk of retaliation by a dissatisfied litigant by way of online fraud. You have commented that that has not, to the best of your knowledge, happened in respect of those judges who are currently required to disclose interest, but that the sample size of those judges is too small to derive comfort from.

In identifying that potential risk, have you given consideration to the experience of other holders of public office who have to declare their financial interests? For example, members of the Scottish Parliament, local authority councillors and members of public bodies all have a role in making decisions that may leave people dissatisfied. Are you aware of any individuals in those categories who have been victims of retaliation by way of online fraud?

**Lord Carloway (Lord President of the Court of Session):** I am not aware of details of members of other public institutions being subjected to online fraud, but judges are in a peculiar position in relation to this matter. They make decisions that inevitably cause disappointment to one party to a

litigation, and those people are, or can be, resentful. I appreciate that that can happen in wider public life, but it is a particular problem for the judiciary.

The losing party can, in some extreme cases, blame the judge for the failure of their case and seek to find a reason beyond the actual decision as to why the judge found against them. It is not unknown for persons to form a malicious or hostile intent towards a judge, or even judges in general, if they are disappointed with the outcome of their case. They can become paranoid or suspicious about the reasons for what is a simple finding of fact in law by the judge, and I would be concerned if they were to source, and potentially damage, the judge's personal or pecuniary interests.

**The Convener:** Do you think that there is a general culture of people looking for explanations beyond the decision? Do people do that already, not necessarily in respect of financial matters but by interrogating any connections that judges might have that might explain a decision?

**Lord Carloway:** It is a relatively common phenomenon, especially with party litigants, who, if they lose their case or a particular aspect of it, may search for reasons as to why that has happened. They will search for reasons that are outwith the obvious—in other words, that they lost the case because they were wrong in law or in fact. They will seek reasons as to why the judge found against them, and they will search for things that are peripheral to the case. That is a problem that we have to deal with—"put up with" is perhaps the wrong expression.

**The Convener:** Do you think that that is compounded by the world of online communication? Is online fraud now a particular issue?

**Lord Carloway:** As followers of blogs and so on in relation to judges will know, there is quite a lot on the internet that is, shall I say, not terribly complimentary about particular judges. Again, that is something that we have to put up with on a daily basis. We are subject to basic abuse by litigants of one sort or another on the internet, and that should be guarded against.

In the First Minister's letter to the convener of the predecessor committee, she specifically referred to the particular need to consider

"judges' privacy and freedom from harassment by aggressive media or hostile individuals, including dissatisfied litigants."

That is exactly the type of thing that I am talking about.

**Angus MacDonald (Falkirk East) (SNP):** Good morning, Lord Carloway and Mr Flinn. I very much appreciate your attendance at the meeting.

You have identified a possible risk to the inhibition of justice in judicial recruitment or in judges starting to decline positions on bodies such as the Judicial Appointments Board for Scotland and the Scottish Courts and Tribunals Service in the event that judges are required to disclose financial interests. Given the principles that guide conduct in public life, why should a requirement for transparency act as a disincentive for judicial office-holders but not for other people who hold public office, such as MSPs?

**Lord Carloway:** A judge or a sheriff is, indeed, like many people, a holder of a public office. The critical distinction between a judge and an MSP, for example, is, of course, that the judge has to be independent of any form of Government. That is what we are looking at. A judge is therefore in exactly the opposite position from those whose work has a political dimension.

I hasten to add that the system here has an international reputation for fairness and not being corrupt, and we are extremely keen to protect that reputation. Members might have seen in the papers that the Council of Europe has an anti-corruption organisation called GRECO, which has specifically examined the potential for corruption in the United Kingdom judiciary, including the Scottish judiciary, in recent years. Its findings, which I think I quoted in the papers, were fairly clear. It did not find

“any element of corruption in relation to judges”

in the United Kingdom,

“nor was there any evidence of”

judicial

“decisions being influenced in an inappropriate manner.”

Because of that, it did not see any necessity to introduce a register of interests specific to the judiciary.

To answer Angus MacDonald’s question a little more directly, we in Scotland do not have a career judiciary in the sense that we have judges who begin their judicial life at the point of leaving university, as judges in many countries on the continent do. We recruit our judges and sheriffs from people who are generally, although not exclusively, in private practice. They are recruited in their 40s and 50s, and perhaps sometimes even a little later as far as the senior judiciary is concerned. We have a relatively small pool of lawyers of excellence who are capable of taking on the job of being a member of our senior judiciary.

Members may be aware that there are currently certain problems with the recruitment of the senior judiciary in particular because of certain steps that have been taken relative to pay and pensions

generally. We have particular difficulties with recruitment at the moment and, if I were to say to senior members of the profession, which they are before they are recruited into the judiciary, “By the way, if you wish to become a judge, you will have to declare all your pecuniary interests and open them to public scrutiny,” I have no doubt whatsoever that that would act as a powerful disincentive for lawyers of experience and skill to become members of the judiciary. I assure the committee that we need them more than they need us.

**Angus MacDonald:** You mentioned the career judiciary. You will be aware that we took evidence from your predecessor, Lord Gill. It is probably fair to say that he did not have a high regard for the system in the United States, where there has been a register of judicial interests, as you will be aware. What is your view of the fact that the United States has successfully introduced a register of judicial interests? Do you agree that it has helped to increase confidence in the judiciary in that part of the world?

**Lord Carloway:** I am not in a position to make any comment whatsoever about the United States judiciary. I simply do not know enough about it to make a meaningful comment. You will be aware that there are problems in relation to the United States judiciary, but I am simply not qualified to comment on the depth of the situation.

I can comment on something that I am sure that the committee is aware of, which is that the Supreme Court of the United Kingdom considered this matter because, previously, as members of the House of Lords, its members were required to have a register of interests. It was decided that members of the Supreme Court should not have to have a register of interests, and I would have thought that, if that is the view of the United Kingdom Supreme Court, we should give some consideration to it, even if, of course, we are not bound by its decisions in that regard.

**Brian Whittle (South Scotland) (Con):** Good morning. In relation to any changes to the current system of recusal whereby it is for a judge to decide whether to recuse, you have commented on the inefficient disposal of business in the courts. I would like to explore the balance between the efficient disposal of business and having systems in place that ensure there is trust in judicial decisions. In that respect, is there any way of quantifying the risks to the efficient disposal of business and, if so, whether your office has carried out an assessment of that?

**Lord Carloway:** Are you talking about the process of declining jurisdiction, or recusal, as it is put?

**Brian Whittle:** Yes.

**Lord Carloway:** I preface my remarks by saying that, as far as I have a concern about this topic, it is not that judges are failing to recuse themselves in particular situations, because I am quite satisfied that they do so when they should. My concern—this is also to do with the disruption of business—is to do with judges or sheriffs who are recusing themselves unnecessarily in circumstances in which they should not do so. That is a much more common phenomenon.

One has to bear in mind that we have litigants who will effectively try to forum shop—that is to say that they will encounter a judge or sheriff who is not to their liking, and they will attempt to remove that judge from the proceedings on pretexts such as their having some remote connection with the case or the people involved in it. That type of thing can cause major problems in the management of business.

In normal cases in which someone is represented by a member of the legal profession, if there is a genuine concern that the judge or sheriff has an interest in the case, that will be raised informally with the clerk of court and, in practical terms, the sheriff court judge will simply decide not to be involved in that particular case. Again, that is not something that can be done in every court—particularly not in courts that only have one sheriff, and especially if it is not raised in advance.

What happens, in the sense of practicalities and reality, is that civil business—which, again, is primarily what we are talking about here—can be allocated relatively late in the day, and a sheriff or a judge might only on the day in question be faced with an application formally in court to decline jurisdiction in that case. If he does so, it is likely that that case will simply have to go off, with all the inconvenience that that involves.

There was a specific point about whether we think that judges should not deal with this question but should pass to another judge. Do you wish me to deal with that point?

**Brian Whittle:** Yes, please.

09:30

**Lord Carloway:** The answer to that particular problem is this: if a judge does not recuse himself in circumstances in which he should have done, any litigant who is dissatisfied with that and loses the case can appeal that and the matter will be reviewed by three judges. Therefore, there is a form of open, public scrutiny of the decision not to recuse a judge. If there were a system whereby that judge could not decide that matter himself or herself—after all, it is he or she who knows whether he or she has a direct connection with the litigation or the persons involved in it—and that

person had passed on the matter to another judge or sheriff, the business in that case would be ceased for the period until that matter was decided. The business that is scheduled for the other sheriff or judge would also be ceased in order that the other judge could take the decision. That other judge is likely to find the decision difficult if he or she does not know the particular facts.

I hope that I am, in a realistic sense, explaining the disruption to business that such decisions can involve. The simplest way to deal with them is the way in which we are dealing with them at the moment. First of all there is the informal route, which means that the judge or the sheriff is not hearing the case in the first place; if that judge decides that he or she should hear the case in any event and is faced with a formal motion to recuse himself, that matter is dealt with transparently in open court and is subject to the appeal process.

**Angus MacDonald:** We have received a submission on this petition from Melanie Collins, in which she highlights a recusal that had, for whatever reason, not been added to the register of recusals. That was only noticed, or challenged, one year after the omission.

When Lord Gill gave evidence to the committee, said:

“To the best of my knowledge, the clerks of court are scrupulously accurate in keeping the register and therefore, wherever there is a recusal, you may depend upon its being recorded in the register.”—[*Official Report, Public Petitions Committee*, 10 November 2015; c 3.]

Does it not concern you that, in the past, recusals have failed to be listed in the register of recusals? Are you not also concerned that the register is being altered—in some circumstances, years later—and only when members of the public, the media or litigants point out that there are gaps in it?

**Lord Carloway:** I note that there was an error in not recording one incidence. I am not particularly concerned about that. The position is that all recusals that appear in the register are as a result of events that occur in open court, in a public forum, and they are recorded in the interlocutor of the court concerned. I think that committee members have a copy of the interlocutor of the court order that deals with the recusal. That is a public document, which is open to public scrutiny. It is a result of the hearing in open court in which the parties would be well aware of the decision and they would have a record of it. Therefore, it does not particularly concern me that there was an unfortunate error in transposing that information into a register of recusals, which is for a different purpose.

**Angus MacDonald:** Is that the only error that you are aware of?

**Lord Carloway:** It is the only error that I am aware of. The judge or the sheriff will make a decision in open court. The direction to the clerks of court is that they should transmit that to the judicial office, so that it can be recorded in the register. If that was not done—it was not done in this case—that is regrettable, but it is not a matter of deep concern to me. One mistake in many instances does not cause me a concern about the general system.

**Angus MacDonald:** But you can understand how Melanie Collins would not feel that it was—

**Lord Carloway:** She was involved in the litigation. She must have known that the decision had been made, because she is the person who was presumably in court at the time. She, or her representatives, would have received a copy of the court order dealing with the recusal.

**Angus MacDonald:** Okay. Thank you.

**The Convener:** I welcome Alex Neil MSP to the meeting. He, too, has an interest in this item. I will take committee members first and if Alex Neil wants to ask a question after that he may do so.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Good morning, Lord Carloway and Mr Flinn. You talked about problems that you perceive there would be with recruitment should a register be introduced. I may have missed a discussion of this in our background briefing, but what is the Law Society's view on a register of interests?

**Lord Carloway:** I do not know the answer to that.

**Rona Mackay:** Fair enough.

**Maurice Corry (West Scotland) (Con):** Good morning, Lord Carloway and Mr Flinn. I welcome your indication that you would have no problem extending the register of recusals to cover instances where judges have considered recusal but have made the decision not to recuse. You indicated that what you considered may provide additional transparency—that follows on from Angus MacDonald's comment. Have you considered options for the ways in which the register could be made transparent when any additions or amendments are made to it?

**Lord Carloway:** Sorry, what is that in relation to?

**Maurice Corry:** Options to make it more transparent.

**Lord Carloway:** Do you mean that we could, for example, put the parties' names in?

**Maurice Corry:** Yes.

**Lord Carloway:** That has been considered, but it is not thought to be particularly necessary or helpful. I return to the fact that all decisions whether to recuse are done in the public forum—they are done in open court. If anyone has an interest in seeing a particular court interlocutor, they can do so. For example, if someone was looking at the register of interests and wanted more details of that, I am sure that we could provide them with those details. However, we are often anxious not to put parties' names in registers of a public nature such as this, because it is usual for cases to involve considerable sensitivities, such as children and so forth. Therefore, we would be reluctant to do that, but it could be done.

**Maurice Corry:** It could be done, but it would have to be looked at very carefully.

**Lord Carloway:** Yes.

**Angus MacDonald:** Would you be content to see information about the date on which an entry is made or a way of noting amendments to entries in the register, such as to correct clerical errors, which we are aware happened on at least one occasion? Would that enhance transparency?

**Lord Carloway:** Yes. That is a fair point. We could have a protocol that, if an entry was made after a fortnight, there should be a footnote to say, "Entered on such and such a date."

**Angus MacDonald:** That is good.

You will be aware that there was a similar petition in New Zealand two or three years ago, which was eventually withdrawn.

**Lord Carloway:** I thought that it was defeated.

**Angus MacDonald:** Yes. Are you aware of whether any register was introduced in New Zealand, along the lines of a register of recusals or a register of interests, after that?

**Lord Carloway:** I am not. I thought that the matter ended with the defeat in Parliament.

**Alex Neil (Airdrie and Shotts) (SNP):** I apologise for being slightly late. I had to go to the Public Audit and Post-legislative Scrutiny Committee. I apologise in advance if I cover ground that has already been covered.

Lord Carloway, as an issue of principle, do you think that it should be left only to a judge to decide whether they are going to recuse themselves, or should you or the keeper of the rolls be able to insist on recusal if you believe that there is a potential conflict of interest?

**Lord Carloway:** The short answer is that I do not believe that there is any problem with the current system, which is that the judge, who

knows what his connection is to the case or the parties to it, should make the initial decision. That decision is made in open court, when the parties are present, and it is subject to review on appeal. In other words, if somebody is dissatisfied with that decision and if the litigant eventually loses the case, the decision will come before three judges who will review whether it was correct. If it was incorrect, the decision on the case would fall.

**Alex Neil:** The person bringing the case to court may not be aware of any conflict of interest that the judge may have and may never find out that there was one, but the judge may well have been influenced by a particular interest. Surely that is not right. If there is any potential conflict of interest, surely there should be a declaration or commitment by the judge, making an explicit statement that there is no conflict of interest. People may not have the resources to appeal, for example. Is the system not balanced against people who come to court for justice?

**Lord Carloway:** No, it is not. I go back to something that I mentioned earlier, which is very important. Scotland does not have a corrupt judiciary. The matter has been examined by independent persons, notably the GRECO anti-corruption body that operates under the auspices of the Council of Europe, which examined the UK judiciary, including the Scottish judiciary. It was clear that, fortunately, we, as distinct from many other countries, do not suffer from corruption in the judiciary. For that reason, it did not consider that a register of interests was necessary. If one introduces such a measure, one has to be satisfied that it is necessary and also that it is proportionate. If one analyses its proportionality, one has to look at what exactly we are guarding against. If the situation were to be that there was corruption in the Scottish judiciary—which we would discover at some point or another—of course we would have to consider measures to prevent that, one of which might be a register of certain interests. Until such time as it is demonstrated that there is corruption in the Scottish judiciary, I am entirely satisfied that there is no requirement for a register of interests and that it would be positively detrimental to the administration of justice, particularly in relation to the recruitment of judges and especially at the higher level of the judiciary.

**Alex Neil:** I want to draw a parallel with the register of interests that members of the Scottish Parliament have to sign and regularly update. That came about not because of any allegations or belief that the system was corrupt or that members of the Scottish Parliament are corrupt. In the 18 years that we have been here, I have not heard one allegation of corruption. The register is there not because of allegations of corruption but to ensure that there is no prejudice. If I participate in

a debate and I have an interest that I have not declared, I will be open to an allegation not of corruption but of prejudice. Because there is a register of interests and because I have to declare interests in a debate or in a committee meeting such as this one, there is a transparency to ensure that I do not act in a prejudicial fashion.

To go back to the case that Mr MacDonald cited as I came in—the case of Advance Construction and Donal Nolan, in which Lord Malcolm's son was involved as a lawyer for one of the parties—the issue there was not an allegation of corruption but one of possible prejudice or perception of prejudice. That is a very good example of why either a register of interests or a more robust system of recusal—or perhaps both—might serve the judiciary very well.

**Lord Carloway:** I am satisfied that Lord Malcolm's actions were entirely honourable and that he acted in accordance with the code of judicial ethics. I am not sure what is—

**Alex Neil:** Have you investigated it?

**Lord Carloway:** I am aware of the background to it.

**Alex Neil:** No, but have you investigated it?

**Lord Carloway:** I have read the papers that it involves.

**Alex Neil:** With all due respect, Melanie Collins and Donal Nolan have written to you on numerous occasions, and at no time have you replied to them, let alone met them, so you have not heard the other side of the case.

**Lord Carloway:** I am sorry, but I am not aware of letters to me by those particular persons.

**Alex Neil:** Your office—

**The Convener:** Alex, let us be careful that we do not get into anything specific on that.

**Alex Neil:** Yes—absolutely. My point is about how Lord Carloway can reach that conclusion if he has not heard the other side.

**Lord Carloway:** I have read documents emanating from the persons that you have mentioned. As far as I am aware, they were not addressed to me, but I could be wrong about that. The position is that I am aware of the circumstances of the case. I am satisfied that Lord Malcolm's conduct was entirely correct in the circumstances. That is part of the problem that you have perhaps highlighted. That case has nothing to do with a register of pecuniary interests. The suggestion is that we should start registering what our relatives are doing, where they are working and matters of that sort, which I suspect would go way beyond even what is expected of politicians.

**Alex Neil:** No—we have to register what close relatives do.

09:45

**Lord Carloway:** Can I deal with the difference between MSPs and the judiciary, which I think I dealt with earlier this morning? It is quite a different function. A politician is by nature someone who is not independent in the sense that the public expect the judiciary to be. That is not a criticism; it is a reality. As a generality, judges do not deal with the type of issues that politicians deal with. Politicians have executive power. They are dealing with major economic interests of one sort or another. As a generality, judges are not dealing with that type of thing. They are dealing with issues that are usually between private individuals but can be between private individuals and Government or others. Judges are not dealing with the type of issues that politicians are dealing with such as planning inquiries and so on at a local level or major economic development in society as a whole.

The need for independence in the judiciary is different from the kind of independence that a politician requires, because with a politician it is primarily, as Alex Neil has pointed out, about issues of a pecuniary nature. Those are not the issues that arise in most of the recusal cases with which we are concerned. What we are concerned with as judges is that we appear to be independent of all connection with the case. It is not a question of having a pecuniary interest.

If one looks at the register of recusals in the past year, I do not think that any of them were to do with pecuniary interest at all. They were to do with social connections with people—whether someone is a friend; whether a party to the litigation is a friend of a friend; and matters of that sort. Those are the types of situations that are raised by people in the practical reality of litigation and those are the issues that are being dealt with. Unless you are suggesting a register of one's friends—and presumably, therefore, one's enemies—the real issue with recusal in the judicial system would not be addressed.

**The Convener:** Last question, please, Mr Neil.

**Alex Neil:** If I can just finally draw the parallel between our register and what has been talked about in terms of either recusal or financial interest, MSPs—as individuals and collectively—do not have executive power per se unless they are ministers, but what is very important is the perception of fairness and the perception that justice is being carried out.

If, in any case—without referring to a specific case—a close relative of a judge is participating in the case, rightly or wrongly, the perception is that

there may be a degree of prejudice. It might be very unfair, but the point is to try to ensure that the excellent reputation of the judiciary down the years in Scotland is retained. That reputation is not just for not being corrupt, which we all accept—we are not accusing anybody of corruption. The perception of fairness and the perception of not being prejudiced are also extremely important. I would argue that, certainly in at least one case recently, which we have referred to briefly, the perception is that there may have been unfairness and prejudice in the way in which the matter was conducted, particularly as the judge concerned was involved in the case not once but on a number of occasions.

**Lord Carloway:** I disagree entirely with your analysis of that particular case and I repeat what I said earlier. The case that you refer to did not involve the judge's son having any active involvement with the case whatsoever. We have very clear rules in our statement of principles of judicial ethics on how to deal with such matters and it is made very clear in that statement that if a relative is the advocate in the case before one, the modern approach is that the judge should not hear the case, or one could put it another way round—the relative should not be presenting the case. Whichever way it happens to be put, the situation that we had 20 or 30 years ago, when it was commonplace for the relatives of judges of one sort or another to be advocating the case, no longer exists.

That practice no longer exists not because it was thought that there was any actual problem with the decision making but, as you say, because of a perception of unfairness. There is a clear judicial rule about that and I am not aware of any case in which it has been breached. I myself have been in a situation in which my son was involved in a firm that was litigating before me. In such a case, the judge would be expected to declare it and the parties would then decide whether to take the point. However, if they took the point and the relative just happened to be a member of the same firm operating in a different department, I would not encourage the judge to recuse himself.

**The Convener:** There are no final questions, so I thank you very much for your evidence. It has been helpful to clarify many of the issues that you presented to us in written evidence and to have an opportunity to explore some of the issues around prejudice, for instance.

We might ask the petitioners to respond in writing to the evidence to allow us the opportunity to reflect on it, if members are so minded. When we consider the petition at a future meeting, we can consider any further actions that members might deem appropriate having read that response. We might want to make

recommendations or suggestions to the relevant decision makers, but it is not within the committee's powers to implement the action that is called for in the petition. However, we will take a view on the petition and dispose of it to somebody else who will make that decision. Today's evidence has clarified many of the issues in my mind. Are members agreed to take the action proposed?

**Members** *indicated agreement.*

**The Convener:** I thank you for attending, Lord Carloway. We will ask the petitioner to respond in writing to what we have heard, but we found it very useful to clarify your perspective on the issues that the petition raises.

**Lord Carloway:** Thank you very much, convener. I am grateful to the committee for taking the time to listen to me.

09:52

*Meeting suspended.*

09:54

*On resuming—*

## **New Petitions**

### **Prescribed Drug Dependence and Withdrawal (PE1651)**

**The Convener:** Agenda item 2 is consideration of new petitions. The first petition on which we will take evidence is PE1651, by Marion Brown on behalf of Recovery and Renewal, on prescribed drug dependence and withdrawal.

I welcome Marion Brown to the meeting and ask her to make an opening statement of up to five minutes.

**Marion Brown (Recovery and Renewal):** First, I give apologies from Beverley Thorpe. She had hoped to be here, but her mother is very ill.

I am here today to represent many people in Scotland who are not well enough to be here in person. Some courageous individuals have provided clear evidence to the committee on the terrible suffering that is being endured as a consequence of taking antidepressants and/or benzodiazepines, as prescribed by their trusted doctors. We have previously raised our concerns directly with the doctors, with national health service representatives locally and nationally, with MSPs and with the Cabinet Secretary for Health and Sport. We actively contributed to the British Medical Association board of science's 2014 United Kingdom research and are taking part in the BMA's on-going work on prescribed drugs associated with dependence and withdrawal.

Our focus now is on raising political, press and public awareness of the issues in Scotland, complementing the activities of the all-party parliamentary group for prescribed drug dependence at Westminster. The Scottish Parliament information centre summary links to the current official medical guidance and policy, and it also outlines the recent BMA recommendations.

We have found major discrepancies between what the official medical guidance would have us all believe and the very different actual experiences of patients. The SPICe briefing states:

"despite the licensing procedures and guidance ... it is ultimately the decision of clinicians to decide whether or not a drug should be used in the treatment of their patient".

That is a comment that seems to come back time and again in response to any questions.

Clinical trials of medicines are usually carried out over relatively short periods. Patients may be prescribed these medicines over very long

periods, perhaps in combination with other medicines. We have found that individual reported patient experience is frequently ignored, put down and disbelieved by clinicians. The clear medical guidance is that benzos should be prescribed for a very short time only, but that is not happening. There is substantial evidence for prescribed benzo dependence and withdrawal issues going back decades. In contrast, medical guidance for antidepressants is that they should be taken for at least six months, and then they are commonly prescribed indefinitely.

There are now many people who have been on antidepressants and/or benzos for twenty years or a lot longer. Long-term harm is now clearly apparent. Safe tapering after different periods of prescribed treatment is fraught with difficulties for patients. The very few—mostly online—support groups that exist have for years been informally gathering evidence on a trial-and-error, ad hoc, patient-report and patient self-help basis. That genuine experiential patient learning and sharing has been largely dismissed, disregarded and even denigrated by the medical profession.

Now that there is a great deal of patient communication via online social media, as well as extensive internet availability of research and medical information, patients often come to know much more about their own conditions than their doctors possibly can. When patients try to discuss what they have learned, doctors patronise them and say that they should not believe anything that they find on Facebook or the internet. Those patients find themselves perceived by their doctors as troublesome and difficult heart-sink patients, and acquire psychiatric diagnoses such as personality disorders and medically unexplained somatic, functional or conversion disorders.

I refer to the diagram in my written submission, which summarises the pattern of the patient journey that we have now observed across numerous accounts by patients of what has happened to them. The fact that patient medical records are confidential to doctors turns out to have unexpected consequences for patients. Self-reported serious drug-effect symptoms have been noted in medical records but have not been acknowledged by doctors as drug effects, and instead further medicines have been prescribed for the reported symptoms.

Complaints procedures tend to be perceived as threatening to doctors. The medical defence organisations encourage doctors to do what any other doctor would do and to comply with current medical guidelines. If patients complain, it results in professionally defensive responses, so adverse drug effects continue to be unrecognised for what they are and are not reported to the regulator.

There is no provision for systemic patient feedback and constructive learning.

To sum up, patients are suffering very serious harm from taking these medicines as prescribed. Dependence and withdrawal problems are causing untold damage; doctor-patient relationships are being destroyed; and all parties are suffering. The consequences are utterly desperate.

Long-overdue recognition of these issues will open the door to honest communication and genuine collaboration, leading to the establishment of appropriate national, regional and local support services and facilities for those who need them and, most important, urgent prescribing guideline reviews and updating of doctor education. The principles of the duty of candour surely apply here. Given the focus of Scotland's "Realising Realistic Medicine" on "listening" to patients, "shared decision-making" and "collaboration", I hope that we can show by example what that means in real practice. This is raw genuine feedback from the public and patients.

I will end my statement by citing "Black Box Thinking: The Surprising Truth About Success" by Matthew Syed, who says:

"The anatomy of progress is adapting systems in the light of feedback."

Thank you.

10:00

**The Convener:** Thank you for your statement. I also thank all those who have provided submissions; we have received a significant number in which people have talked about their own experiences, and they will help the committee's consideration of the petition.

Your petition refers to the BMA's recent recommendations, one of which is the introduction of

"a national, 24 hour helpline".

Could you, as a starting point, clarify whether you would want the Scottish Government to establish a Scottish helpline or to contribute towards a UK-wide helpline?

**Marion Brown:** We envisage a UK-wide approach with the Scottish Government collaborating with all the other UK partners. The whole of the UK could be covered by a helpline and a website containing lots of information; indeed, the website in particular would be incredibly useful for doctors, not just patients. It would be immensely helpful if there were reliable information to which doctors could refer. A UK-wide measure would also be fairly cost effective, as it would cover all the regions.

**The Convener:** Has the UK Government taken action in response to the BMA's recommendation?

**Marion Brown:** I understand that BMA representatives met Westminster Government representatives on 22 June, but I have heard no reports of what happened there. The BMA has certainly approached the Westminster Government about the issue.

**The Convener:** That is a matter that we can inquire about.

**Rona Mackay:** I want to find out more detail about the helpline. What role would it perform? Would it be a source of medical advice, act as a counselling service or signpost people to various sources of support?

**Marion Brown:** Discussions are on-going, but it would have to be a combination of those roles. Sometimes people are incredibly distressed, so they need help; the Samaritans, for example, have been overwhelmed with this problem, but it does not have the expertise to help people. In any case, there is nowhere to signpost people to at the moment.

**Rona Mackay:** Do you foresee the need for specialist training to carry out that role?

**Marion Brown:** Yes, there would certainly have to be specialist training, but it could be centralised. Although there is nothing in Scotland, helplines have been running in England for quite a long time now—about 20 years—although some of them have closed down due to lack of funding. Barry Haslam, who has sent in one of the submissions to the committee, helped to set up a helpline in Oldham, and that set-up has been replicated in other places in the north-west of England.

**Rona Mackay:** Is the service widely used?

**Marion Brown:** Yes. There is one in Bristol, too. The service is overwhelmed—people cannot get through to it.

There is huge need for a properly resourced service that has information that doctors will believe. At the moment, even if people tell their doctor that they have phoned a helpline and have been advised to take a particular action, the doctor will say that they do not know anything about that and that that is not what it says in the guidelines.

**Rona Mackay:** There needs to be more crossover and co-operation between the two.

**Marion Brown:** Yes, absolutely. It needs to be something that the medical profession—

**Rona Mackay:** Can feed into.

**Marion Brown:** Yes, and which it can collaborate with and believe in, too. I hope that patients are getting good advice from somewhere.

Quite often, people get good tapering advice, usually from one of the online resources, but when they go back to the doctor and tell them what they have been advised, the doctor says, "My guidelines don't say that—I suggest you do this."

**Rona Mackay:** So there is a disconnect.

**Marion Brown:** Yes.

**Angus MacDonald:** Another of the BMA's recommendations calls on

"Each of the UK governments, relevant health departments and local authorities"

to

"establish, adequately resourced specialist support services for prescribed drug dependence."

Can you expand on what "adequately resourced specialist ... services", in addition to the helplines and websites that you mentioned earlier, might look like?

**Marion Brown:** We are still in the early stages of figuring out exactly what they would be. The BMA has been talking to the charities that have been running support helplines and so on, and there is a lot of expertise there to work with. Early in the process, collaboration would mean everyone speaking to everybody else and trying to work out what is needed.

At the moment, people are being left in the long grass and are really suffering. You just have read their accounts; there is just nothing—no support—for them. They are just left, and nobody believes what is wrong with them.

**Angus MacDonald:** Thank you.

**Maurice Corry:** Good morning, Marion. I am well aware of the good work that you do with Recovery and Renewal in my home town of Helensburgh. It is a great benefit to the area.

The BMA's recommendations also call on professional bodies to offer

"guidance on tapering and withdrawal management".

Are you aware of any work that is being done to develop such guidance?

**Marion Brown:** Again, it is at an early stage. Because the problem has not been recognised by the medical profession, nobody has done the research. Nobody has really done anything about it—except hope that it will all go away. However, some research is being done now, and more will follow.

One thing that I would like to say is that there is a lot of expertise in the self-help groups, the Facebook groups and the internet groups. The patient self-help groups have developed a huge amount of expertise, and they will be able to share what they have learned, as long as they are willing

to. They have been helping real people go through real processes, and there has been a lot of coming and going and a lot of people supporting each other.

There is a lot of expertise out there, if it is recognised. If everyone were able to talk to each other and collaborate, that work could be developed.

**Maurice Corry:** Do you find that that is helping you in your work in the Recovery and Renewal centre?

**Marion Brown:** We do not have a centre.

**Maurice Corry:** I am sorry—I mean the work that Recovery and Renewal does.

**Marion Brown:** We have found it really difficult. People are struggling desperately with the medication; the doctors are not helping them and their advice is often unhelpful. It is really hard. When Recovery and Renewal started up in 2013, we approached local doctors, told them what we would be doing and asked whether they would be interested in coming to speak to the group or whatever. We heard nothing. We have kept writing to various people, and we keep getting nothing. The response has been nothing—a blank. Everywhere we go in the medical profession, we get a blank response.

We have been trying to help people and signposting them to the charities and the Facebook groups. There is a website called “Surviving Antidepressants” and another one called “BenzoBuddies”. They have been going for years and have built up a huge amount of knowledge and experience, but they are not funded. Basically, they are self-help groups.

**Brian Whittle:** You have said in your evidence that many people appear to have been taking for many years prescribed medication that was intended for only short-term use. From the many submissions that we have received from patients, it would appear that they consider the practice to have harmed their health. What can the Scottish Government do to better monitor prescribing practice and raise awareness of the issues?

**Marion Brown:** The first thing to do is to raise awareness of the issues. As far as prescribing practice goes, once the issues are recognised and taken into account, that will begin to help things change through the process of feedback that I referred to. However, the issue of prescribing practice is really for the Scottish Government and is not really for us to help with. I can speak only about the public perception of what is happening.

**Brian Whittle:** The suggested overuse of prescribed drugs perhaps leads to a change in people’s personality, which can result in a lack of good decision making. In the current system of

prescription, patients can stockpile prescription drugs. Is that, coupled with the impaired decision-making process, exacerbating the problem?

**Marion Brown:** Are we going on to issues of misuse?

**Brian Whittle:** No—I am thinking more about the way that the drugs are prescribed and the possible lack of control by the medical profession, which could be allowing that poor decision-making process to exacerbate a health problem with antidepressants.

**Marion Brown:** I am not sure that I can give an opinion on that.

**Brian Whittle:** That is okay.

**Kate Forbes (Skye, Lochaber and Badenoch) (SNP):** Convener, I just want to put it on the record that I am here on behalf of and at the request of Joanna Dennison, a constituent of mine who had hoped to be here but who was unable to come. I believe that members all have her personal testimony.

**The Convener:** As I have said, we are very appreciative of the personal submissions that people have made. They have given us an idea of some of the important issues that Marion Brown has flagged up.

Marion, you mentioned an all-party parliamentary group at Westminster. Have you explored the possibility of a cross-party group involving members of the Scottish Parliament to highlight the issues?

**Marion Brown:** Jackie Baillie raised something like that back in, I think, 2013, soon after we started our group. We have been involved with Jackie Baillie right the way through, and she knew about that possibility. She came to one of our meetings and contacted a cross-party group on something similar, such as mental health issues.

**The Convener:** There is a range of groups. We would have to look at them, because specific questions on prescribed drug dependence might be a subset of the issues that an existing group deals with. You have distinguished between the misuse of drugs and dependency on prescribed drugs, which is a slightly different issue.

**Marion Brown:** We asked Jackie Baillie to explore that, and a letter came back saying that the group did not think that that was necessary.

**The Convener:** The petition might generate an interest in the issue, and that could then be looked at.

We appreciate your evidence and the substantial written evidence that we have received on the issue. There is a dilemma here. First, there is the appropriateness of prescribing particular

drugs at all, and then there is the issue of prescribing drugs for longer periods than they are intended to be used for. Are there some drugs that ought not to be prescribed at all or whose use should be discouraged?

There is also the issue of the extent to which the medical profession is alive to people's concerns when they feel that they have become dependent. We will all have been in circumstances where we have raised questions and had the response that it is a clinical decision, which is difficult to argue with.

The petitioner has raised a number of important points, and we now need to decide how we want to take forward the petition. What are members' views on that?

**Brian Whittle:** As you have alluded to, convener, the issue is not the prescribing of the drugs per se but the length of time that those drugs are prescribed for. In cases where drugs are supposed to be used for only a short period, what is in place for the medical profession to change that service? The only thing that I can think of doing is to write to the Government to ask for its view on the petition.

**The Convener:** That would certainly be a good starting point, because the Government would then take advice from the chief medical officer. We could ask patients organisations other than Marion Brown's that deal with mental health issues whether they are seeing people with the same concerns. For example, the Samaritans, which Marion Brown mentioned, or the Scottish Association for Mental Health might have evidence on the scale of the problem that they face.

10:15

**Rona Mackay:** It is clear that the BMA is aware of a problem. There is no denying that this is a huge issue; it is just a question of how we take the issue forward. Certainly, we should write to the Scottish Government as a first step.

**Brian Whittle:** If the BMA is aware of an underlying problem in the profession, I would like to understand why that problem exists. I do not know whether we need to go any further than writing to the Government at this point.

**The Convener:** I suggest that we write to the Scottish Government, which will get information from the chief medical officer. It might also be worth exploring with SAMH, the Samaritans and other such organisations whether they are aware of the issue. We had a petition in tragic circumstances where a young woman was prescribed drugs on her first surgery visit and then sadly died. We are very aware of individual tragic circumstances and another petition on the issue.

We might want to tease out the issue of the appropriateness of prescribing drugs in the first place, and there is also the issue of managing dependence at a later stage.

**Maurice Corry:** We should perhaps bring the issue to the attention of the UK all-party parliamentary group for prescribed drug dependence, which Marion Brown mentioned. We might as well benefit from the larger area that it covers.

**Marion Brown:** We want as much collaboration as possible.

**Maurice Corry:** Have you been in touch with that group?

**The Convener:** It might be worth contacting it to ask what it has done on the issue.

**Maurice Corry:** Yes—just to gather evidence.

**Marion Brown:** We have been involved with that group. We know it and we have been working with it.

**The Convener:** We can perhaps also ask the BMA for an update on where it has got to with its recommendations on a helpline.

That has been a reasonable first stab at what is an important petition. Again, I thank Marion Brown for attending. The petition will come back on to the agenda after the summer recess and once we have received responses from the Scottish Government and other organisations.

I suspend the meeting to allow a changeover of witnesses.

10:17

*Meeting suspended.*

10:19

*On resuming—*

### **Active Travel Infrastructure Strategy (PE1653)**

**The Convener:** The next new petition that we will take evidence on is PE1653, on active travel infrastructure, by Michaela Jackson on behalf of Gorebridge Community Development Trust. This morning, we are joined by Michaela Jackson, who is accompanied by Dave du Feu and David French, who are both members of Spokes, which is a cycling campaigning group in Lothian. I welcome you all to the meeting and invite Michaela to make an opening statement of up to five minutes, following which we will move to questions from the committee. I also welcome Christine Grahame MSP, who has an interest in the petition.

**Michaela Jackson:** Thank you very much for having us this morning. I am joined by Dave du Feu, who will talk about policy issues, and David French, who will help me to present and will talk about the issues with option B for the Sheriffhall roundabout.

I started the petition when it became clear that the option that had been chosen for the Sheriffhall roundabout was the worst option with regards to accessibility for pedestrians and cyclists. The issues extend to broader transport policy because the chosen option is at odds with two key Scottish Government policy objectives. The first is CAPS—the cycling action plan for Scotland—which was initiated in 2010 with a vision that 10 per cent of all journeys in Scotland would be taken by bicycle. A recent review has indicated that there has only been a 0.2 per cent increase in cycling journeys. At that rate, it would take more than 300 years to reach the 10 per cent cycling goal. It is clear that, at present, transport policy does not integrate cycling or active travel enough: cycling and active travel have to be central to policy, rather than add-ons at the end.

The second Scottish policy objective that option B is at odds with is climate change. Scotland has really ambitious CO<sub>2</sub> emissions reduction targets, but when I read through the environmental analysis report for the Sheriffhall roundabout, I was surprised to see that climate change was not really considered with regard to how the construction was to be implemented. The key considerations were the actual environment and journey saving times.

We need to look at how what we build impacts users. If we build for traffic and cars, we will get more traffic and cars; if we build for people and places, we will get more people and better places. I ask that active travel be not an add-on, but absolutely integral to any new transport infrastructure, especially in relation to trunk roads in key commuting areas.

**Dave du Feu (Spokes):** I will spend two minutes outlining policy issues.

As Michaela said, the Government's preferred option B for Sheriffhall is the worst option for cycling and walking. It will make it impossible to include a direct pedestrian/cycle bridge and it has numerous slip-road crossings. The Government's option B announcement did not even mention cycling.

In its report "Strategic Cross-Boundary Cycle Development", the regional transport authority SEStran—the south east of Scotland transport partnership—identified the importance of having a bridge at Sheriffhall if there is to be high-quality cycling provision. Sustrans, the Scottish Government's main partner on cycling

infrastructure, stated in a letter to the designers that the option was so poor that it would not comment on the details and instead urged a rethink of the options. Even the Scottish Government, in a letter to Spokes, damned option B with faint praise, saying merely that it is better than the existing arrangements.

In 2004, Scottish ministers allocated £800,000 to Midlothian Council for a cycle bridge at Sheriffhall. Sadly, the cash was subsequently reallocated because, at that time, the roundabout rebuild appeared to be moving up the agenda.

More generally, the Scottish Government has a trunk roads cycling initiative policy, which might particularly interest Mr Whittle and Mr Corry, having been introduced by Lord James Douglas-Hamilton in 1996. It is still current, and it commits the Government to

"give special consideration to cyclists in trunk road improvements,"

"ensure no hazards to cyclists are built in,"

and

"ensure that opportunities for cyclists are exploited."

However, that policy is clearly breached by choice of option B.

Finally, option B reflects a general issue in respect of treatment of walking and cycling in infrastructure projects, of which I have countless examples: major decisions are taken and only then do designers try to fit in active travel, although good options may by then be impossible. Instead, cycling and walking should be essential criteria from the outset and holistic solutions should be developed. I now pass over to David French.

**David French (Spokes):** I will talk briefly about Sheriffhall itself, which is an important road intersection. However, for pedestrians and cyclists it is, equally, an important barrier between Midlothian and Edinburgh. Crossing the current roundabout is not a fun experience, whether you take the pavement and cross the carriageways or cycle round the roundabout. The building of a new roundabout is a great opportunity to fix that and to make active travel between Midlothian and Edinburgh at Sheriffhall an appealing option. However, the proposed design option B does not manage to do that.

As Dave du Feu said, improving safety at Sheriffhall for non-motorised users is not a particularly high bar to clear, but I am not convinced that the proposed design even manages that. The assessment report asserts that safety for non-motorised users will be improved by grade separation, but crossing the slip roads will still be dangerous, especially if the crossings are not signalised. The nearby Straiton junction is

already grade separated, but it was recently listed by Sustrans as one of the worst accident spots in the country. We really need segregated routes across the Sheriffhall junction.

**The Convener:** Thank you very much. We are obviously interested in the specifics, but we also want to look at the more general issues, so thank you for flagging up some of those. Rona Mackay has a question.

**Rona Mackay:** Good morning. Your petition calls for active travel considerations to be incorporated into all new major infrastructure projects. We know that there is disagreement over the extent to which that is already being achieved. Therefore, how we measure the provision and quality of active travel infrastructure is important. Do you have any suggestions for how the provision and quality of such infrastructure can be objectively measured? Are you aware of a widely acknowledged standard or guidance that can be drawn on for that purpose to make comparisons?

**Michaela Jackson:** I do not know; I am not an expert. However, personally I feel that if I can take my children along a path, it is a safe path for active travel. I do not define myself as a cyclist—I am just trying to get from A to B and to get some exercise into my day—but alone I will take greater risks and travel on busy roads that I would not dream of taking my children on. For me, the benchmark is whether you would take an eight-year old child on the road. I do not know what work Spokes has done.

**Dave du Feu:** I do not know the details, but I know that when the Scottish Government—or Transport Scotland—consulted on the options for a Sheriffhall roundabout, Sustrans did a very detailed analysis of the options based on various criteria. We can provide that letter from Sustrans, if that would be helpful.

**Rona Mackay:** Did you get an explanation for why option B was chosen over the others?

**Michaela Jackson:** I have just looked at the assessment report. Different criteria are put into a model called STAG—Scottish transport appraisal guidance. However, the problem with the model is that it extrapolates data from 2014 to 2024, when the roundabout will come into use, and it looks at the impact that that will have on journey times, safety and the local environment. However, I feel that we cannot use models that extrapolate from 2014; we need to look at where we want to be in 2024. We cannot just assume that traffic will increase by 40 per cent. Transport is already the highest contributor to greenhouse gas emissions in Scotland, so we have to look at how to hold that back and how to decrease the level of traffic. We cannot just tinker around the edges of the current system; we need to look at creating a different

system that actively supports different methods of getting from A to B. We cannot build that sort of hard measure into our society when we are looking for long-term change.

10:30

**Rona Mackay:** Would there be merit in looking to some of the European infrastructures that have been operating for some time, and looking for best practice there?

**Michaela Jackson:** Undoubtedly, it would. It is not a difficult problem to solve, because lots of other countries have solved it. In Copenhagen, 50 per cent of the people on the streets are on bicycles.

**Dave du Feu:** It is also about the level of priority that is given to walking and cycling in decisions. There are the obvious reasons—Michaela Jackson has mentioned climate change and public health, which are obviously important—but we must also remember the Government's policy and its clear objective for 10 per cent of journeys to be made by bike by 2020. That will now be incredibly difficult to meet, if not impossible, but we at least want to work towards it.

The Government has no policy to increase journeys by car, yet we have decisions being made in which the convenience and time savings of car travel are given much greater priority than walking and cycling are. In the Scottish Government's overall transport policy, which is in the national transport strategy, there is a very clear statement of its vision for the future of transport, which is of

“a culture in which fewer short journeys are made by car,”

yet here we are taking decisions that are increasing car journeys and making walking and cycling more difficult.

**Rona Mackay:** Okay. Thank you.

**Brian Whittle:** Good morning. The Scottish Government has published “A Long-term Vision for Active Travel in Scotland 2030”, which includes this aspiration:

“Main roads into town centres all have either segregated cycling provision or high quality direct, safe and pleasant alternatives. Pedestrian and cycle paths are in place. Rural and suburban minor roads have low speed limits, linking nearby communities and services so opening up new travel opportunities and choices.”

Have you had a chance to review that strategy? Do you have any thoughts on the Scottish Government's vision? I am thinking about whether the policy is integrated and whether it will lead to the desired stated outcomes.

**Michaela Jackson:** I have looked over it briefly, and it sounds wonderful; I agree with everything in

the vision. I just feel that it is a little bit like CAPS, in that the Government has these amazing visions and we have incredible targets that we hope to meet with regard to climate change, but we are not putting in place the policies to achieve those visions. It is a bit disjointed: there is no cohesion and everything is in silos. We have good visions on individual things, but we do not consider how to implement them and join them up with transport, education and health. That is the problem. The document is great, but there is not enough practical detail on exactly how the vision will be achieved.

**Dave du Feu:** The first point that Brian Whittle quoted was about segregated provision on main roads. We believe that that is critical for the future. On interauthority cycle routes—Sheriffhall is a good example, as the route runs from Midlothian to Edinburgh—it is really important to have segregated provision; I believe that I am right in saying that the Conservative manifesto for the Scottish Parliament election included segregated routes in every city in Scotland.

The problem with segregated routes between local authority areas is that—quite understandably—each local authority wants to invest its cycling funding in its area of greatest population, so there is less money for routes between authorities. Some years ago, the regional transport partnerships used to have capital funding, but that was removed by the Government when it first came to power, and as a result there is now a lot less money available for interauthority cycle routes. When SEStran had capital funding, it allocated £4 million for routes between Edinburgh and Midlothian, East Lothian and so on. That was all lost when the capital funding was scrapped.

One project that survived was the A90 cycle route, which goes from Edinburgh to the Forth road bridge and Fife. That was completed about two years ago and has been incredibly successful. I do not have the figures with me, but I am sure that the City of Edinburgh Council could supply them. There has been a major increase in commuting into the city via that route.

As far as Sheriffhall in particular is concerned, SEStran has pointed out that the existing biggest flows of cycling between Edinburgh and the surrounding areas are between Edinburgh and Midlothian, so it is a particularly important corridor.

**Michaela Jackson:** With regard to Sheriffhall, I know that Midlothian Council is planning on a bit of a cycle highway between the Sheriffhall roundabout and the Tesco Hardengreen roundabout—I do not know whether you know the area—and then between Hardengreen and Eskbank. It is quite a wide road and the council is really keen to segregate it properly. I feel that having provision properly implemented in

Sheriffhall could kick-start other really exciting developments to support commuting into Edinburgh. Journeys within Midlothian are really challenging. The Midlothian transport report stated that it is very difficult to get from west to east in Midlothian by public transport so improvements at Sheriffhall would support connecting Midlothian as well.

**Maurice Corry:** The committee is aware that some local authorities have adopted active travel action plans. Are you aware of whether that is widespread and do you consider that the Scottish Government should promote those initiatives?

**Dave du Feu:** I believe that in the cycling action plan for Scotland there is a very strong request to all local authorities to adopt such plans—I do not know whether it is actually a requirement. Some money and resources—via Cycling Scotland—have been put into assisting local authorities with drawing up plans, so I believe that the process is under way. I am not quite sure what stage it has reached; I am sure that Cycling Scotland could advise on that.

**Michaela Jackson:** I deal with the Midlothian active travel transport officer quite closely and Midlothian has tiny pockets of money. A lot of them are for soft measures such as cycling days to try to get people out and get their bikes fixed. In fact, the transport officer has said that the focus in Midlothian is on commuting to work by bike. He tries to go along with people to show them the best routes to get to their work and so on. There is a small amount of money, but it is so small that the whole thing basically relies on one person's single vision and a lot of soft measures.

Some hard measures are about to be implemented; I think that there are, for example, plans along certain parts of the railway. That was a key missed opportunity to implement really good active travel infrastructure. The small pockets of money come every now and again but instead of connecting roads, they just pave an existing path. The problem is that people do not know about the paths. There is a path at Mayfield, by the Shell garage, that is impossible to see. I know that it is there only because the transport officer told me about it.

**Dave du Feu:** Some years ago, as the committee will know, there were regional councils rather than the present set-up, so because the councils were much bigger, it was possible to set up expertise within each council on walking and cycling. Lothian Regional Council, for example, had a fantastic cycle team.

When the regional councils were split up, Edinburgh was fine because it is still a fairly large local authority, but Midlothian, West Lothian, and East Lothian all basically lost nearly all their

expertise. This is an area in which regional transport authorities could help considerably. I know that SEStran is trying to work on that in order to build up regional expertise and to provide assistance to all the smaller local authorities that just do not have the resources for it. That does not help with the capital funding, but it provides the expertise, which is the other side of the coin.

**Maurice Corry:** To follow on from that—you have answered half my question—what involvement has Sustrans had in option B and the other options?

**Dave du Feu:** Are you asking about Sustrans as opposed to SEStran? I was talking about SEStran in relation to providing expertise for small local authorities.

**Maurice Corry:** Right, okay.

**Dave du Feu:** Sustrans has paid a great deal of attention to Sheriffhall roundabout specifically. It did a very detailed assessment of the original options and, as I said in my opening statement, it has said that the option that the Government has chosen as its preferred option is so poor that Sustrans is unwilling to comment on the details and feels that the Government should rethink which option it is going for.

**Angus MacDonald:** Has Sustrans told the Government that it is unwilling to comment?

**Dave du Feu:** Yes. Sustrans has written a letter—it is publicly available—to AECOM, the consultants that the Government has taken on for the design.

**Angus MacDonald:** That is great.

A key part of your petition is about how the consultation process feeds into the development of infrastructure projects. Do you have any suggestions about how the Scottish Government could achieve a higher standard of public consultation on active travel infrastructure?

**Michaela Jackson:** The consultation was not the issue; there was a consultation. David French was involved and he said that he was listened to and heard. Sustrans and Spokes have had input—they have been heard and listened to by the Scottish Government. Despite that, priority is given to the STAG model, which sets out what measures will create what amount of journey time saving. If we were to increase cycling by 10 per cent, for example, the model would not look at how that would decrease congestion, what the impacts on the local economy would be or what the CO<sub>2</sub> emissions savings would be.

There is nothing wrong with the STAG model, but it must be a lot broader and take into consideration different criteria. It is very narrow. I have a masters degree and I studied

environmental assessment methods. There is nowhere near enough of that in the model.

**Angus MacDonald:** Do you know whether figures about or surveys of active travellers regularly feed into the development of infrastructure projects in Scotland? Do you have any suggestions on how the Scottish Government could source that data? Dave French mentioned sharing details from Sustrans.

**Michaela Jackson:** I would look to Sustrans to answer that.

**Dave du Feu:** Local authorities collect some data, but I am not sure how consistent that is between authorities. Edinburgh has a lot of automatic traffic counters that count cyclists as well as motor traffic, but I do not know the position in local authorities in general.

**Michaela Jackson:** In academic literature, a plethora of research states something along the lines that the more roads we create, the more traffic there is. There is a direct correlation between the length of a road and the amount of cars that will use that road. There is also clear evidence that providing active travel infrastructure, such as segregated cycle paths, leads to an increase in cycling. Furthermore, there is a lot of literature on the economic benefits of creating active travel infrastructure. People may argue that transport budgets are tight, but the payback is quick.

**Dave du Feu:** To follow up on the question of how big decisions are taken, there seems to be a general feeling among designers and decision makers that the big decisions on a project can be taken and walking and cycling can be fitted in afterwards. As I said in my introduction, the big decision often rules out the best option.

By far the best example that I can give you of that is the Edinburgh tramline system. As you will know, a great number of related injuries—250—have been seen at Edinburgh hospitals, and the tramlines have possibly been implicated in a recent death.

A lot of the problems are to do with the tramline layout. We made such points 10 or 12 years ago when the layout was being discussed. We even brought over an expert from the Netherlands, who did a report that showed how the tramline layout could be made much more amenable to walking and cycling. Unfortunately, all that was turned down. As a result, it is much more difficult to implement safe interaction between walking and cycling and the trams. The tramline layout cannot be changed—that would be far too expensive and disruptive.

The consultant who came over said, “What you’re doing is implementing a tram then trying to

fit everything around it. If we were doing this in the Netherlands, we wouldn't be implementing a tram; we would be looking at trams, buses, walking and cycling and how the whole thing fits in for maximum safety and maximum convenience for the whole of society."

**Angus MacDonald:** Thank you—that is a helpful example.

**The Convener:** We are tight for time, but I promised Christine Grahame that she would get an opportunity to ask questions. I ask her to be alive to the time pressures.

10:45

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** You loved saying that, convener, as I do in the chamber.

I know the Sheriffhall roundabout like the back of my hand, because I use it regularly on the A7 or the A6106, and I have never seen a cyclist trying to navigate it. As the petitioners and I know, the lights change immediately and, as soon as the lights for the bypass change, the next lane whizzes off. I do not think that I have ever seen a pedestrian trying to navigate the roundabout. I believe that cyclists call it the blender, and I am not surprised.

I am practical about such issues. We have all these models and things such as that, but I am looking at a picture of option B, and, to be frank, the only thing that is proposed is to lift up the bypass; the original roundabout, which as we know has lights that switch rapidly, will be left as it is. That is no use whatsoever to cyclists and pedestrians. The irony is that, as you and I know, although there is a cycle path on the A7 to the north of the roundabout, there is no way of reaching it.

I have asked the minister a couple of times about the issue. I asked whether he would make provision for cyclists, and this is what I got back:

"Suitable provision for all users, including cyclists, is an important part of the proposed improvements to Sheriffhall Roundabout and this will be developed in further detail".—*[Written Answers, 15 May 2017; S5W-09136.]*

I have heard nothing since. My concern is that we will get something planted on that will not work for cyclists.

You talked about graded lanes. Given that something is in train, are you saying that you also require—as you probably do—lights that change for cyclists and pedestrians and which hold the local traffic as well as traffic on the slip roads that go to the bypass east and west, because of the way in which the current light system operates? What is your solution? You are the cyclist, so you know better than anybody else.

**Michaela Jackson:** Ideally, what everyone wants and what Midlothian was promised is a cycle bridge. Unfortunately, with option B, the bypass goes over the roundabout, so there cannot be a bridge over the bypass.

The situation is difficult. Because the current option is so poor, we are hammering something on to the outside, whereas it should be integrated in the design. I presume that that would be an improvement to the current situation. I would not cycle on the Straiton roundabout either, because it is a nightmare. If we create a system that is still a barrier but has a sort of minor improvement, we will not get people on bikes. We do not need to get cyclists on bikes; we need to get people on bikes who want to have the opportunity. We need to get the lady who works in radiology at Little France on her bike because she feels that the journey will be safe and she will not have to sit in traffic. Brave cyclists such as my husband will do it, but it is the normal people who need support and should be given as much support as possible, which I presume would mean lights. Ideally, the measure would not be tacked on at the end. We want a proper crossing.

**Christine Grahame:** If we were to tear up option B, we would still have to deal with the enormous amount of bypass traffic and separate local traffic from it and the traffic that feeds on to the bypass. What would you do instead of having a flyover for the bypass?

**Michaela Jackson:** Option C.

**David French:** Yes, option C. In the consultation, I criticised that option for some minor things, but it would be a huge improvement on what is there now and on options A and B, because people could cycle from Dalkeith to Edinburgh without crossing the A720 or the A7.

I consider myself to be a fairly confident and brave cyclist, but I have found cycling round Sheriffhall terrifying. The last time I went there, I took the pavement, and it took me three minutes to go round the roundabout, as I had to stop and wait for a gap in the traffic, which is not always obvious, because drivers do not always indicate when they are coming off the slip roads, and they go terrifyingly fast.

**Michaela Jackson:** They also switch lanes.

**David French:** I am a brave and confident cyclist, and I am terrified. We should build infrastructure that people are happy to take an eight-year-old across, that an 80-year-old will be happy cycling across and that people in wheelchairs can go across. We do not have that.

**Christine Grahame:** As a final point—I thank the convener, who has been tolerant—will you say what option C was?

**David French:** Option C involved moving the roundabout half a mile west, using the old roads—the current A7 and A6106—and putting cycle lanes on them, and then building a bridge over the A720 to the east of the new roundabout. It would have been great.

**The Convener:** This is a live issue and the minister will be questioned on it, but we need to consider what to do with the petition. I thank the witnesses for the evidence that they have given, which has been useful.

Do members have comments or suggestions for further action? I think that we want to take the petition forward. We have discussed the issue of planning and not bolting things on afterwards, when they become difficult.

**Brian Whittle:** I would be interested to hear feedback from the Government on the plan and the reasons why it has gone with option B.

**The Convener:** We will contact the Scottish Government.

**Rona Mackay:** Can we press it for an answer to Christine Grahame's question, which she has not had much feedback on?

**Michaela Jackson:** Yes—the answer just mentioned a general principle and said, “We will make sure they are catered for.” There was no practical detail.

**The Convener:** In consultation with the clerks, we can see whether it would be worth while to get the minister in, as opposed to simply dealing with the matter through correspondence.

Are there any other suggestions? Sustrans has been mentioned.

**Maurice Corry:** We should write to Sustrans, and we should also get more information on option C, which has been emphasised.

**Dave du Feu:** The conclusion section of the clerk's note for the committee recommends writing to various bodies to seek their views on the petition. May I suggest that you add to that and seek their views on the petition in respect of transport projects in general and specifically the Sheriffhall roundabout? There are two issues—

**The Convener:** I appreciate that, but I would need to take advice on whether, as the Public Petitions Committee, we can focus on individual projects. We might be able to ask the minister about the project in that context, but we can check that out. I am sure that the clerks will be happy to advise us.

**Angus MacDonald:** Given the nature of the petition, we should also contact Scottish Environment LINK, which is the umbrella body for a number of non-governmental organisations, and

perhaps WWF, which I know has strong views on the current situation.

**The Convener:** We can highlight a number of issues, and we will get back to the petitioner on the direct question about whether we can seek views on the specific as well as the general. Thank you very much for your attendance. I suspend the meeting to allow the witnesses to leave the table.

10:52

*Meeting suspended.*

10:54

*On resuming—*

## Continued Petitions

**The Convener:** I call the committee back to order and remind members that we have a significant amount of business to get through. I am not sure that we will get through it all, but we want to make sure that all petitions are treated with respect and that we have enough time to reflect on them in a serious way.

In the interests of striking a balance between dealing with petitions in a serious way and addressing the pressures of time, we might not manage to reach some petitions today. I hope that the petitioners will understand that that is because we want the petitions to be treated with respect. I could rattle through them in 15 minutes, but that would be disrespectful to the petitioners and to the considerations of the committee. We will see how it goes, but, as we have to finish at 20 minutes to 12, my expectation is that we might not reach some petitions. They will be rescheduled for consideration as soon as we return. We always have to strike a balance between getting through the business and making sure that we give petitions sufficient time, even in taking evidence.

### Group B Streptococcus (Information and Testing) (PE1592)

**The Convener:** The next petition on the agenda is PE1592, by Shaheen McQuade, on group B strep information and testing. Members will recall that the UK national screening committee's review of the latest evidence on screening for group B strep was published in March 2017. It has not recommended introducing a national screening programme for the disease.

At our previous consideration of the petition, we agreed to write to the Scottish Government, seeking its view on that decision. The Scottish Government's response stated that

"the National Institute of Health Research has been asked to commission a UK-wide clinical trial to compare universal screening for GBS against usual-risk-based care. We hope this will commence as soon as practicable."

The Scottish Government's letter also noted that

"the UK Government Chief Scientific Adviser held two research workshops last year to bring together a broad range of experts on GBS from across the UK."

It is intended that an outcome paper will be published following those meetings, which will outline steps that are intended to aid in reducing the harm that is caused by group B strep.

We have not had any written submissions from the petitioner, although she has been invited to provide them. Nevertheless, we can conclude that

the Scottish and UK Governments are taking forward measures that, it is to be hoped, will address the issues that are raised by the petitioner. Do members have any comments or suggestions on actions that we can take?

**Angus MacDonald:** How long have the committee clerks waited for a response from the petitioner?

**The Convener:** There has been no response from the beginning. We appreciate the petitioner's submitting the petition and giving us the information, but she has chosen not to respond further, which she is entitled to do.

**Angus MacDonald:** Absolutely, and I congratulate the petitioner for making sure that the issue is on the radar. Nevertheless, I am minded to close the petition under standing order rule 15.7, given the convener's earlier comments and given that the UK national screening committee reviewed the latest evidence earlier this year, did not recommend screening for group B streptococcus but did ask the National Institute for Health Research

"to commission a UK-wide clinical trial to compare universal screening for GBS against usual-risk-based care."

**Rona Mackay:** I agree with that. Progress has been made and we have gone as far as we can with the petition.

**The Convener:** There is always the option for somebody to bring back a further petition if they feel that progress is not being made on the issue. Are we agreed that we will close the petition, as outlined by Angus MacDonald?

**Members indicated agreement.**

**The Convener:** We reiterate our thanks to the petitioner for the courage that she demonstrated in bringing the petition and in giving her personal testimony to the committee. That could not have been easy, but it has shone a light on a very important issue. It is clear that there is an awareness of the issue at a Government level.

### Sepsis Awareness, Diagnosis and Treatment (PE1621)

**The Convener:** The next petition is PE1621, by James Robertson, on sepsis awareness, diagnosis and treatment. Members will recall that, at our previous consideration of the petition, we invited the Scottish Government to respond to questions raised by the petitioner with regard to on-going work and measurements, training programmes and mapping.

The Scottish Government has advised that the work on sepsis awareness and management continues in local boards as part of the deteriorating patients pathway. That work is

monitored through national standard performance indicators and is supported by the Scottish patient safety programme team.

The Scottish Government has advised that training programmes that incorporate sepsis are taken during foundation year 1, when doctors undertake mandatory training sessions. It notes that specific sepsis scenarios are included as a mandatory component for all doctors in the advanced life support course, and it advises that nurses and other healthcare staff are able to access that course. However, it adds that, although those courses are delivered consistently across the entire Scottish healthcare system with the same mandatory components, there is no formal mapping process.

The petitioner has acknowledged the detail that has been provided by the Scottish Government but refers to his own personal experience and questions the effectiveness of the training. He also notes a recent resolution by the World Health Organization that urges all Governments to raise awareness among their publics of the symptoms of sepsis. He suggests that the Scottish Government might act on that resolution by launching a national public awareness campaign, to be led by NHS Scotland.

Members will recall that the Scottish Government indicated in its submission in March that it would be supportive of any public-facing campaign, which it suggested could be undertaken through its endorsement of existing work that is done by charitable organisations such as the Fiona Elizabeth Agnew Trust and by encouraging individual boards to work collaboratively. Do members have any comments or suggestions?

11:00

My view, for what it is worth, is that we should ask the Scottish Government whether it would consider running its own public awareness campaign, given the resources of the NHS compared to those of a small voluntary organisation. There is no doubt that the need for public awareness is a big issue.

**Brian Whittle:** I would be interested in understanding the continuing professional development process in the health board, as CPD issues seem to be a recurring theme across a multitude of disciplines in the NHS.

**The Convener:** Are you referring to how awareness training is continued among clinicians?

**Brian Whittle:** Yes.

**Angus MacDonald:** That would be a sensible course of action, in particular given the WHO's recent resolution to launch a global public awareness campaign on sepsis. It would be good

to get the Scottish Government's views on a Scottish campaign.

**Rona Mackay:** I declare an interest in that Mr Robertson is a constituent of mine. I agree with what we are planning to do—it is important that there is a Scotland-wide awareness campaign. Mr Robertson thinks that we are doing less in Scotland than NHS England is doing south of the border. The WHO launched its global campaign less than a month ago, so it is imperative that we act. Mr Robertson highlights in his submission that he is

“unconvinced of the effectiveness of the training”

at present, given that it is not so long since his wife died in hospital after 17 days with the condition.

**The Convener:** We want to contact the Scottish Government to ask that it launch a national public awareness campaign. We are interested in knowing why it would not want to do so given the importance of the issue and the WHO's campaign. In addition, we will ask about refresher training for clinicians.

We thank the petitioner for pursuing the issue at what must still be a very difficult time for him, as he has such a personal connection with, and awareness of, the condition given its direct impact on his own life and his family's lives.

If that action is agreed, we will move on to the next petition.

**Members indicated agreement.**

### **Local Authority Education Committees (Church Appointees) (PE1623)**

**The Convener:** PE1623 is on unelected church appointees on local authority education committees. The petition is by Spencer Fildes, on behalf of the Scottish Secular Society. The Scottish Government has replied to the questions that arose from our previous consideration of the petition and has confirmed that it will carry out an equality impact assessment on any policy changes that are made through its education governance review. It adds that it will address separately any proposals in the petition that are not addressed through its governance review.

The Scottish Government has published information on the next steps in its education governance review, which was debated by the Parliament yesterday afternoon. The petitioner welcomes the commitment and clarification that the Scottish Government has provided. Do members have any comments or suggestions on how we should take the petition forward?

**Angus MacDonald:** The petition seems to have done its job, as the Scottish Government has

given a commitment to consider the issues that the petition raises as part of the education governance review and has confirmed that it will carry out an equality impact assessment on any policy changes that are made through the review. I move to close the petition under standing orders rule 15.7.

**Maurice Corry:** I would not close the petition, convener, as we need to take the point about the need to look at the “Education Governance: Next Steps” document and how it pertains to the petition. We should keep the petition open until such time as we have considered that as a committee.

**The Convener:** I simply make the point that the education governance review is a big and wide-ranging document, and the petition relates to a very small part of it. We have a choice: we can close the petition, and the petitioner can come back if they are unsatisfied with what the Scottish Government does in relation to the equality impact assessment, or we can do as Maurice Corry suggests and keep the petition open. Do members have a view on that? Either way, we would not be closing the opportunity for the petitioner to bring the issue back.

**Rona Mackay:** For that reason, I think that we should keep the petition open at this stage. I am not sure what could be gained from closing it until we know whether the petitioner is satisfied with the changes in the governance review.

**The Convener:** Brian?

**Brian Whittle:** What?

**The Convener:** Do you have a view?

**Brian Whittle:** I am being Kofi Annan here, sitting on the fence. However, I am inclined to close the petition, to be honest, given that the petitioner has the option to come back again.

**The Convener:** It is always a fine balance. The question of whether we close a petition is something that has shaped the history of the Public Petitions Committee itself. We recognise the issues; the Scottish Government has said that it will address them. The option is open for the petitioner to submit the petition again if they are unhappy with what the Scottish Government has done on the question. We could also flag up to the Education and Skills Committee, which will be scrutinising the Government’s response, that this particular issue has been highlighted and ask it to at least ensure that it is part of its scrutiny. Would that cover it?

**Rona Mackay:** That is a good point, convener.

**Maurice Corry:** I certainly do not think that we should close the petition. I must stand by my original statement in relation to my experience with

education committees in councils. I am sorry that I do not agree with the rest of the points. I agree that the matter should be flagged up to the Education and Skills Committee, but I stand where I stand.

**The Convener:** That is helpful. I think that, on balance, across the committee, we do not agree with you. We understand the point that you are making, but I wonder whether the majority view is that we should close the petition.

**Angus MacDonald:** I, too, have served on education committees at local authority level, and I am pleased to see that the Scottish Government has given a commitment to consider the issues that have been raised. I am still minded to close the petition.

**The Convener:** If you want to push the matter to a vote, Maurice, we will have a vote for the purpose of recording your opinion.

**Maurice Corry:** I am sorry—I stand by what I said, and you can take that as you wish.

**The Convener:** I move, that the petition be closed on the basis that the Scottish Government has given a commitment to consider the issues raised in the petition as part of its education governance review and has confirmed that it will carry out an equality impact assessment on any policy changes made through that review. We also have the reassurance that the issue will be flagged up to the Education and Skills Committee and that the petitioner is able to return at a later stage if they are unsatisfied with the Scottish Government’s action.

#### For

Lamont, Johann (Glasgow) (Lab)  
MacDonald, Angus (Falkirk East) (SNP)  
Mackay, Rona (Strathkelvin and Bearsden) (SNP)

#### Against

Corry, Maurice (West Scotland) (Con)

#### Abstentions

Whittle, Brian (South Scotland) (Con)

**The Convener:** We have three voting for, two voting against and one fence-sitter—it is entirely your right to do that, of course, Brian. The committee is agreed to close the petition.

We recognise that there are important issues in the petition, and we thank the petitioner for bringing the matter to the attention of the Parliament and the Government.

### Bus Services (Regulation) (PE1626)

**The Convener:** Petition PE1626, by Pat Rafferty, on behalf of Unite Scotland, is on the regulation of bus services. The Scottish Government has provided the clarification that we sought following our previous consideration of the

petition and has advised that improved partnership working and franchising will be elements of the full consultation on the proposed transport bill. We have not received a response from the petitioner. Do members have any comments or suggestions for action?

**Brian Whittle:** It would be interesting to find out from the Scottish Government what the timescale is for the consultation on the proposed transport bill and perhaps ask it to engage with the petitioner at the earliest opportunity.

**Angus MacDonald:** I agree. I think that we are all keen to see the transport bill go through its parliamentary stages as soon as possible—sooner rather than later—so getting an indicative timescale from the Scottish Government would be of enormous help.

**The Convener:** It would also be good to get a commitment to address the issues that have been flagged up, particularly around the provision of effective bus services across the country, which was raised with us.

Is it agreed that we will write to the Scottish Government seeking an indicative timetable for its full consultation on the proposed transport bill and that we will ask the Government to engage with the petitioner, as Brian Whittle has suggested?

**Members** *indicated agreement.*

**The Convener:** We might also get back to the petitioner—they may have been caught up with so many other different things that they have not been able to respond.

### Ocular Melanoma (MRI Scans) (PE1629)

11:10

**The Convener:** Petition PE1629, on MRI scans for ocular melanoma sufferers in Scotland, was lodged by Jennifer Lewis. We have received submissions from the chief medical officer and the petitioner.

The CMO has provided her views on the action that is called for in the petition, essentially supporting the Scottish Government's views as set out in its March submission in that the specialist Scottish ophthalmic oncology service follows national guidelines that were accredited by the National Institute for Health and Care Excellence. She explains that it is her understanding that the guidelines will be reviewed in December 2019 but that an intermediate review would be carried out if any new evidence became available before then.

The petitioner's submission argues that new evidence was presented during her evidence to the committee on 2 February and also in her submission of 12 April. Her submission is

supported by Iain Galloway, who presented evidence to us alongside the petitioner in February. He notes that, in the rest of the UK, if a patient requests an MRI scan, they are able to get it even if the centre does not offer that facility for first-line surveillance.

The petitioner and Iain Galloway also query the information provided by the CMO about research being undertaken on the use of ultrasound for first-line surveillance. They regard it as futile and a backward step when ultrasound is already known to be inferior to MRI. In addition, they note that it could take up to two years for the research to gather sufficient statistically significant data due to the small number of patients, and they compare the cost implications of the time and resources spent on the research against the additional cost of providing MRI scans.

In her submission, the CMO refers to a recent commissioning for quality and innovation meeting at which it was agreed that

“a UK wide group would be formed to develop UK wide guidance and recommendations on surveillance”.

Iain Galloway indicates that he would wish to understand more about the effect that any UK-wide group could have and would welcome sight of the minutes to get a fuller picture. For her part, the petitioner regards the formation of a UK-wide group as a

“potential step in the right direction”.

I invite comments and suggestions from members.

**Rona Mackay:** I think that we have to probe the matter further, because there are still a lot of unanswered questions around the response from the chief medical officer. We must ask about flexibility and why some UK centres offer to provide MRI scans to patients on request. We need a timescale for the formation of the UK-wide group that is going to undertake the work. We also need to probe the various other points that have been raised by the petitioner and get some more answers.

**Maurice Corry:** I am concerned about the chief medical officer's response to the petitioner. The petitioner says that she can “only hope” that Gartnavel hospital will be proactive, and that is not enough. I am severely concerned about that, so I think that we need something more positive.

Writing to NICE would also be a productive way forward. We need to get it to button down its responses; they are not satisfactory as they are.

**The Convener:** I recall that we found the evidence to be compelling that MRI scans help with diagnosis and the scale of the problem. It is

not clear why such a scan would not be routinely offered in Scotland if it is being offered elsewhere.

The points about new evidence are also well made by the petitioner.

If the committee agrees, the petition will come back to us when we get that information.

**Members** *indicated agreement.*

### **Nursery Provision (Funding) (PE1630)**

**The Convener:** The next petition is PE1630, by Fiona Webb, on nursery funding for three-year-olds.

Members will recall that, at our last consideration of the petition, we asked the Scottish Government for an update on its response to the consultation on its plans to expand early learning and childcare provision in Scotland, including the commitment to increase the current entitlement of free early learning and childcare entitlement to 1,140 hours. Members will see from the clerk's note that the issue of parents' ability to access the full entitlement for their children was raised when the minister made his policy statement. The minister noted that the Scottish Government considers that the current arrangement provides sufficient flexibility to local authorities to provide the entitlement to address the issue.

The petitioner has been invited to comment on the Scottish Government's response but a submission has not been received. Do members have any suggestions or comments on how we might proceed?

11:15

**Brian Whittle:** The petition and the topic that it raises are very interesting, and there has been a lot of toing and froing in Parliament on the issue. The Government's position has been fairly well stated and I do not think that it is of a mind to move at this juncture. I therefore wonder whether—without a further submission from the petitioner, and whatever our view on the issue—it is viable to keep the petition open, even though to me the issue is a fundamental one.

**The Convener:** This is a live issue and people are watching closely the ability of the Scottish Government to implement its childcare strategy. As a member of the Education and Skills Committee, I know that we have looked at the planning process around the strategy. I have no doubt that other parliamentary committees will look at the issue. It is the kind of issue that will secure parliamentary scrutiny, although whether the specific issue that the petition raises about children's third birthdays is dealt with remains to be seen.

**Rona Mackay:** The Government's response states that local authorities currently have flexibility, so it is within their discretion to offer entitlement at an earlier stage. A watchful eye will obviously be kept on all this, but I think that this is as far as we can go with the petition, so I suggest that we close it.

**The Convener:** Are we agreed that we will close the petition on the basis that the Scottish Government has published an action plan for the expansion of early learning and childcare in Scotland and has made a commitment to publish an evaluation report on the expansion by the end of 2017? There will be an opportunity for the petitioner to revisit the issue if they feel that it has not been addressed. Are we agreed?

**Members** *indicated agreement.*

**The Convener:** I thank the petitioner again for submitting the petition and highlighting an issue that is clearly of concern and has been addressed in Parliament, not only in the Public Petitions Committee.

### **Concessionary Transport (Carers) (PE1632)**

**The Convener:** The next petition is PE1632, by Amanda Macdonald, on concessionary transport for carers.

Members will recall that when we previously discussed the petition we agreed to seek the views of a number of stakeholders. The carers organisations that responded agreed with the petitioner that many carers face financial difficulties in affording transportation. They have provided figures to the Scottish Government on what they estimate the policy would cost.

The Scottish Government explained that the Carers (Scotland) Act 2016 will place a duty on local authorities to support

“the identified needs of carers who meet local eligibility criteria”.

The relevant provisions of the act will come into force on 1 April 2018. The Scottish Government also outlined a number of measures that it has taken recently to provide additional support to carers.

COSLA explained that local authorities address carers' needs in a targeted way to assist those who are in the greatest need. It questioned whether the scheme proposed in the petition would be affordable or

“represent the most effective way to invest resources to improve outcomes for carers in the greatest need.”

Members will recall that we agreed to meet informally with the petitioner. Arrangements were taken forward for a meeting but it had to be

cancelled. We were sorry not to have that opportunity, but the petitioner has provided a written submission that outlines her views in more detail and responds to the submissions received from stakeholders. Ms Macdonald explained that

“young carers are included in those who save the government an average of £132 billion per year ... however they are not eligible for Carers Allowance.”

Ms Macdonald also noted that many carers do not live with the person they care for, which means that their caring-related transport costs are not always covered by the companion card.

Do members have any comments or suggestions on how we might take the petition forward?

**Brian Whittle:** I think that I mentioned the last time the petition came before the committee that, when I attended an away day for young carers, there was a round-table discussion at which they got to question MSPs and, boy, did they. I was struck by the personal and anecdotal evidence about some of the issues that they face. A lot of the issues are around transport—even paying for a bus fare to go down town to pick up a prescription and come back. It seems to me that there is an obvious solution, which the petitioner raises. I am loth to let the petition go.

**The Convener:** You can understand the argument on cost and you can understand COSLA and the Scottish Government’s position, but the petitioner’s argument about the savings to the public purse from the support by carers is compelling, too.

If we do not close the petition, how could we usefully progress the issues? There would just be an argument about the costs. Would we seek evidence on something specific that would help to inform our view?

**Brian Whittle:** I was hoping that you would come up with the answer, convener.

**The Convener:** For once, I have not managed that. [*Laughter.*]

**Maurice Corry:** Based on my experience as the chair of the integration joint board in Argyll and Bute, I know that the IJB is very much a health and social care partnership and it is budgeted accordingly for the matters devolved to it. The issue of concessionary travel must be addressed with local authorities. If we were to close the petition as it stands, we would not be closing off the actions of what could happen.

The IJBs have been operational only since 1 April. They are getting their act together, if I can put it that way. Obviously, I know that the issue is under consideration, bearing in mind that young carers are saving not only the Government

nationally, but local authorities. We need to give local authorities the space to try to implement the legislation. Perhaps the issue could be revisited by the petitioner after that.

**Rona Mackay:** The Carers (Scotland) Act 2016 will be in force by April next year, which will add a new dimension to the issue, because local authorities will have a duty to support the needs of carers who meet certain criteria.

The issue is on-going, but I am not sure what we would achieve were we to keep the petition open from now until next year.

**Maurice Corry:** I agree.

**Angus MacDonald:** Clearly, the onus is on local authorities, so I agree with Maurice Corry and Rona Mackay that, reluctantly, we should perhaps close the petition. At the same time, we should monitor whether local authorities—

**Rona Mackay:** We would not be closing the topic—

**The Convener:** To play devil’s advocate, if we have a national concessionary bus scheme, the Scottish Government’s responsibility is to extend the criteria to carers. The infrastructure is there. The question of cost is clearly one that the Scottish Government has pushed back on.

The judgment for the committee is whether we let the petition go in the knowledge that, as the carers legislation is implemented, a question remains on whether the issue is addressed. My sense is that both the Scottish Government and local government have said that they cannot afford it. They have taken a view on the petition, so the question is whether we want to push that further. Could we host another event, such as a further round-table session to address the issue, or would that be taking it too far? Is the issue so specific that we would not be looking for a broad-based view?

**Maurice Corry:** The other way would be to bring COSLA to the table here to get its views. We need to bear in mind that funding would have to come out of local authorities—that is the issue.

**The Convener:** The other option is that, because the Carers (Scotland) Act 2016 says that need can be determined locally, there is nothing to stop the Scottish Government separately deciding that it will expand the concessionary travel scheme to carers. The two issues do not preclude one another. We know that, realistically, neither COSLA nor the Scottish Government will argue for that on the grounds of cost.

**Maurice Corry:** I agree. It is a national strategy but, at the end of the day, the money that has to pay for that comes from the local authorities. That

is my point. There is a crossover between national Government and local authority levels.

**The Convener:** That is the case for some of it, but the national concessionary scheme is funded through the Scottish Government budget.

**Maurice Corry:** Right. Okay.

**The Convener:** We are talking ourselves to a standstill.

**Rona Mackay:** The issue could be revisited in the sense that it would be nice to get an indication of how much it would cost to implement the scheme.

**Angus MacDonald:** That is a fair point. We do not have a ballpark figure from either COSLA or the Scottish Government. It would be good to get that figure and to see whether it would be feasible to expand the scheme.

**Brian Whittle:** We could also ask for the criteria for such a scheme.

**The Convener:** Shall we do that? Given that this is an issue of cost, it would be useful to ask the local authorities whether any of them is contemplating concessionary travel for carers as part of the local provision for carers. Do members agree to that approach?

**Members indicated agreement.**

**The Convener:** We will continue the petition to establish the costs of implementing such an extension to the scheme to carers.

### Local Housing Allowance Cap (PE1638)

**The Convener:** The next petition is PE1638, by Sean Clerkin, on “Local Housing Allowance (Bedroom Tax 2)”. We have received submissions from the Association of Local Authority Chief Housing Officers, the Scottish Federation of Housing Associations and the Scottish Government.

The Scottish Government notes that the petition reflects concerns among stakeholders about the impact of the measure. It says that it shares those concerns and would welcome parliamentary discussion of the issues but that it first requires full details from the Department for Work and Pensions on how the policy will be implemented.

Members will recall that we asked the Scottish Government for an indication of the extent and limitations of the powers that are available to it within broader UK policy. The Scottish Government repeats that it will be unable to provide a detailed assessment of options that are available to it until it has clarity on UK Government policy. It adds that that extends to any consideration of funding arrangements and that

ministers intend to raise those concerns directly with the UK Government.

The Scottish Government was able to provide an update on the research that is being undertaken in partnership with the Chartered Institute of Housing, and it attached to its submission the interim report. That report identifies a number of potential challenges, which are summarised in paragraph 8.

The submissions from ALACHO and the SFHA support the action that is called for in the petition and provide examples of the challenges that may be faced because of the measure’s additional complexity. Both submissions identify that the measure is more complex than the so-called bedroom tax, which will make it far more difficult for the Scottish Government to mitigate the impact.

The petitioner considers that the submissions demonstrate the concerns that exist about the policy and make clear the difficulties in mitigating the impact. He repeats his call for a parliamentary debate on the issue.

Do members have any comments or suggestions? I was struck by the responses from the housing organisations in particular, given the impacts on their tenants and on particular groups, including single young men, whom they highlight. I am a bit disturbed by the lack of detail that they have. Even if we were to ask the Scottish Government to consider mitigating the policy’s effect, it would not have the detail to allow it to do that.

**Angus MacDonald:** Perhaps the Scottish Government also does not have the resources. How far should we go to mitigate the impacts? There is no bottomless pit of money.

**Rona Mackay:** It would be useful to find out when the Scottish Government will raise with the UK Government the issue of the funding arrangements. It would be useful to tease out more detail on that and on whether the Scottish Government plans to have a parliamentary debate.

**The Convener:** We have already decided to submit two requests for debates from earlier business. We could consider also doing that in this case, but I do not think that we have enough information at this stage.

I do not know whether the Social Security Committee is looking at the matter—or the Local Government and Communities Committee, given its housing remit. I think that we would want to flag up the matter to the relevant subject committees and ask whether they have a focus on it.

**Rona Mackay:** I agree. We should ask whether the issue is on the committees’ radar.

**The Convener:** That is partly because, as we can see from the written evidence, the issue is substantial but also quite technical. The fact that the SFHA and ALACHO highlight that suggests that they are working on it, but I am not sure whether it has worked its way through into the parliamentary process. I fully expect that the matter will end up as the subject of a parliamentary debate, but it would be interesting to find out from the subject committees whether they are exploring it. I do not know whether there are other ideas that we can take forward at this stage.

**Brian Whittle:** If other committees are gathering evidence, I would prefer us all to gather it together. As the convener said, it is a complex issue to deal with.

**The Convener:** I suggest that we also write directly to the DWP and ask where it is in the process, what its timescales are for the detail and whether it has done an assessment of the impact of its policy. The clerks will advise us whether we should write to the minister or to the department, but that is something else that we could take forward.

My sense is that we do not want to let the petition go to a subject committee at this stage and that we still want further information. In the uncertain world that we live in, the issue might have fallen off the agenda at UK level, which I think most of us would welcome. Equally, it might simply be that there is no focus on it but it is being pursued at departmental level, and we would want to be aware of that, too.

11:30

**Angus MacDonald:** For the time being, the committee should reserve the right to initiate a debate in the chamber if the Scottish Government is not willing to do so. I hope that it is willing to do that but, if not, we should keep the issue on the agenda.

**The Convener:** Absolutely. Our option for a parliamentary debate would be informed by the further information that we get. We would not drive a debate ahead of getting that information. In illuminating the issue for other committees, we will perhaps create a trigger for them to ask similar questions.

We will write to the Scottish Government, highlight the petition to the relevant subject committees and contact the DWP directly to ask what it has done. If other housing organisations have an interest in the issue and wanted to respond to the petition, we would welcome that.

We appreciate the fact that the petitioner has lodged the petition, as it concerns one of those

issues that people might not have become aware of, because of its technicalities.

If that is agreed, we will move on to our final petition—*[Interruption.]*

11:32

*Meeting suspended.*

11:32

*On resuming—*

### **Risk-based Blood Donation (PE1643)**

**The Convener:** The final petition for consideration is PE1643, lodged by Jack Douglas on behalf of the National Union of Students Scotland, on introducing individual risk-based blood donation. The petition calls for a change to the regulations that prevent people from the lesbian, gay, bisexual and transgender plus community from donating blood and for a move to an evidence-based system that examines people on their individual risk in relation to providing blood. Members have copies of the submissions that have been received from the Scottish Government, the Scottish National Blood Transfusion Service, the Terrence Higgins Trust, HIV Scotland and the Equality Network.

The Minister for Public Health and Sport says that the Scottish Government is very much open to revising the deferral criteria for men who have sex with men and other categories of donors and is sympathetic to the argument that a 12-month deferral period may no longer be necessary for some groups of potential donors, given the improvements in blood screening tests.

The stakeholder submissions also indicate support for a revision of the current rules on deferral and speculate on potential recommendations of the review that is being conducted by the donor selection working group of the Advisory Committee on the Safety of Blood, Tissues and Organs, or SaBTO. The SNBTS submission indicates its understanding that the working group was due to report earlier this month, with subsequent recommendations to be made to relevant ministers and health departments of the devolved Administrations. It may assist our consideration of the petition if we can get confirmation of that.

Each of the submissions expresses support for the suggestion of a move to an individual risk-based system, as it could eliminate discrimination and improve confidence in the system. The SNBTS supports the concept in principle but suggests that a lack of evidence, the interpretation of the phrase “individual risk assessment” and time and resource constraints impact on the

feasibility of such a move. The SNBTS adds that an online confidential donor selection portal, as suggested by the petitioners in their evidence to the committee, would be possible to implement but would have to be scoped, designed and constructed.

Do members have any comments or suggestions on what action we might take?

**Rona Mackay:** I declare an interest, in that I had a members' business debate on the subject. We need to seek an update from the Government and SaBTO on the status of the review that the donor selection working group is undertaking. An all-party group in Westminster will have a meeting on the subject next month as well. It is time to regroup and get an update.

**The Convener:** Given the time constraints, can I assume that the committee agrees with the suggestion of seeking an update and pursuing the issues from there?

**Members** *indicated agreement.*

**The Convener:** I thank all committee members, the clerks to the committee, the official report staff and everyone else who supports the committee for all their help over the past year. We can be proud of the work that we have done, the number of petitions that we have dealt with and the opportunity that we have afforded petitioners to raise a range of issues with us. I also thank SPICe, whose role with regard to the committee is maybe more burdensome than it is with others.

Finally, I thank Maurice Corry. I am sorry to hear that you are leaving the committee, but it has been a pleasure to work with you and we wish you well in your new committee. We can always invite you back to support individual petitions. We look forward to working with your colleague when she becomes a member of the committee.

**Maurice Corry:** Thank you. I have been appointed as a substitute member of the committee, so I may be back.

**The Convener:** I wish everybody all the best for the summer and look forward to seeing you in September.

*Meeting closed at 11:36.*

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