



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 7 November 2019

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 7 November 2019

CONTENTS

| | Col. |
|---|-------------|
| CONTINUED PETITIONS | 1 |
| Restraint and Seclusion in Schools (National Guidance) (PE1548) | 1 |
| Youth Football (PE1319) | 21 |
| Salmon Farms (Closed Containment) (PE1715)..... | 39 |
| NEW PETITIONS | 41 |
| 5G Technology (Roll-out) (PE1753) | 41 |
| Constitutional Change (Referendum) (PE1754)..... | 43 |
| Single-use Plastics (PE1755)..... | 45 |

PUBLIC PETITIONS COMMITTEE

19th Meeting 2019, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Maurice Corry (West Scotland) (Con)

*David Torrance (Kirkcaldy) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Bruce Adamson (Children and Young People's Commissioner Scotland)

Nick Hobbs (Children and Young People's Commissioner Scotland)

Beth Morrison

Diego Quiroz (Children and Young People's Commissioner Scotland)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Public Petitions Committee

Thursday 7 November 2019

[The Convener opened the meeting at 09:17]

Continued Petitions

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

The Convener (Johann Lamont): I welcome everyone to the 19th meeting in 2019 of the Public Petitions Committee.

Agenda item 1 is consideration of continued petitions. The first petition for consideration is PE1548, by Beth Morrison, on national guidance on restraint and seclusion in schools. The petition calls on the Scottish Government to introduce national guidance on the use of restraint and seclusion in all schools, and to appoint a specific agency to monitor the support and care that are given in non-educational areas, including the evaluation of the use of restraint and seclusion of children with special needs in local authority, voluntary sector or private special schools.

During our most recent consideration of the petition, in June 2019, the committee agreed to invite the Children and Young People's Commissioner Scotland to give evidence at a future meeting. I am pleased to welcome the commissioner, Bruce Adamson, and Nick Hobbs, who is head of advice and investigations at the Office of the Children and Young People's Commissioner Scotland. I also welcome the petitioner, Beth Morrison, whom the committee invited to be here alongside the commissioner in order to provide any supplementary information that might be required during the evidence session.

I invite Mr Adamson to provide a brief opening statement before we move to questions.

Bruce Adamson (Children and Young People's Commissioner Scotland): Thank you, convener, and good morning, everyone.

The issue is a human rights issue that cuts right to the heart of children's rights: the right to dignity and respect; the right to be kept safe; the right to access an education that develops their personality, talents and abilities to their fullest potential without discrimination; the right to associate with other children; the right to be protected from cruel, inhumane and degrading treatment; and the right not to be unduly deprived of their liberty.

Restraint and seclusion interferes with all those rights, and it is happening across Scotland. There is strong evidence that children's best interests are often not at the centre of decision making and that their voices are being lost in the processes around them. It is therefore important that we have national guidance on the use of restraint and seclusion of children in schools, and the Scottish Government must introduce that national guidance as a matter of urgency. Without robust national guidance, the Scottish Government is in breach of its human rights obligations to children.

In addressing the deficiencies of the current approach, it is important to set it in the context of the celebrations of the 30th anniversary of the United Nations Convention on the Rights of the Child and to note the Scottish Government's commitment to incorporate those rights into domestic law by the end of the current parliamentary session. We can fully protect children's rights only in that way.

I turn to the petition and the progress that has been made. Huge credit should go to Beth Morrison, who I have the honour of sitting beside, and Kate Sanger, who is in the public gallery. They have acted as fierce champions and human rights defenders on behalf of children across Scotland and in supporting their families. I also note the in safe hands? campaign that Enable Scotland launched this week to regulate the use of seclusion and restraint in Scotland's schools. We fully endorse that.

As the committee is aware, this is the first time that the Children and Young People's Commissioner Scotland, the Scottish Human Rights Commission or any body of that type has used its investigation powers in Scotland. We did not take the decision lightly and, through the use of those legal powers, we sought to draw attention to an issue that was being ignored.

Our investigations established that there is a gap in the support that is available to teachers and classroom assistants because of the lack of robust and human-rights-based national guidance and that that gap impacts negatively on children and increases the likelihood of restraint and seclusion. Our investigations also established that incidents were not being properly and consistently recorded across the country, which makes it difficult to introduce improvements in relation to policy.

A hand that is made up of words that are associated with emotions that children and young people expressed to us—for example, "Sad", "Lonely", "Unloved" and "Confused"—is on the front cover of our report on the investigation. The voices of children and young people sit at the heart of our investigation and the heart of the petition. Their voices are being lost and, unless we make radical changes quickly, they will continue to

be lost, and children's rights will continue to be breached.

The Convener: I will open up the questioning. In his most recent submission on the petition, the Deputy First Minister and Cabinet Secretary for Education and Skills outlined the Scottish Government's plan to

"refresh their guidance on physical intervention and seclusion within the wider context of Included, Engaged and Involved Part 2"

and to

"provide more clarity on the definition of seclusion and further guidance on its use in practice."

What is your view on that action?

Bruce Adamson: "Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions" is about reducing the need for exclusions. That is important, but the document is set around that. Children have the right to an education, as set out in articles 28 and 29 of the United Nations Convention on the Rights of the Child and article 2 of the first protocol of the European convention on human rights. Exclusions interfere with those rights.

Ministers are quite correct to seek to reduce the number of incidents of exclusion and to respond to children's behaviours. That is a legitimate thing to do, but it is also a narrow thing to do, and it is not what the petition seeks to address.

Our strong view is that the guidance needs to be specific to restraint and seclusion and that it should be set within the context of children's rights. We are talking about children who are communicating distress and who have adults around them who do not have the support and guidance to properly address that distress. If we are to have meaningful and effective guidance that works for those who support those children, it has to be set within the context of understanding the child and working with the family, using some of the very good tools that we have heard about from Beth Morrison and others to understand how a particular child communicates their distress and what possible traumas might have been part of their life, and setting out a clear way of supporting that child. That is all before we move on to how we de-escalate and mitigate and, as the very last resort, move on to restraint.

It is problematic to put the guidance within a narrow framework of exclusion and behaviour management. We are not talking about behaviour management; we are talking about children communicating distress and those around them needing support to understand that. We need independent human-rights-based guidance. I agree with the Government that that needs to be

set within broader guidance, but that broader guidance should be on children's rights, communication, the right to education and all the other rights that I set out in my introduction. Things are best done through stand-alone guidance. That should not be set within guidance on exclusions.

Nick Hobbs (Children and Young People's Commissioner Scotland): The commissioner has identified the issue with IEI2, which is that it is very narrowly focused on exclusions and behaviour management. We have called on the Government to produce something that addresses restraints in the context of additional support needs, child protection and safeguarding, and trauma-informed practice. We know that lots of really good discussions are going on in Scottish education on all those things, but the location of the discussion on restraints in the guidance is in a silo, away from those other discussions. The discussion on restraints needs to take place in that much broader context, because those are the things on which teachers and support staff need most support and guidance. That is why we are calling on the Government to locate the issue in that much broader context.

The Convener: To clarify, should the work on the included, engaged and involved part 2 strategy be pursued at all?

Nick Hobbs: We need far more than a refresh.

The Convener: But do we need a refresh? Is that relevant to the discussion on restraint?

Nick Hobbs: We have focused on restraint and seclusion. The elements of the included, engaged and involved part 2 strategy that deal with exclusions have not been part of our work, so I cannot say whether that part of the guidance needs to be refreshed. The information on restraint and seclusion needs to be lifted out of the guidance entirely, although we could leave a reference to it in there. We need to ensure that we have a stand-alone piece of guidance that draws the wider link to all the other issues, such as additional support needs, child protection and trauma-informed practice. What is needed is not a refresh of IEI2 but a specific stand-alone piece of work.

Beth Morrison: I spend a lot of my time supporting families in meetings in schools, following their child having been subjected to a physical intervention in which they might have been injured. When I take the guidance into schools, the response is that schools either do not know about it or see IEI2 as just being guidance. I have been told several times, "Oh, it's only guidance. We don't have to follow that."

The Convener: There is an issue about whether IEI2 is relevant at all and an issue about what authority it has. I am not quite clear whether

you are arguing for the guidance to become statutory and strengthened or arguing that it takes us down the completely wrong route in relation to restraint and seclusion and that, therefore, the Deputy First Minister's response to the petition is absolutely inappropriate.

Nick Hobbs: It is both. We are saying that the current guidance is not adequate. It amounts to two pages and is in the wrong place, so it does not provide enough detail and support for teachers and classroom assistants who need guidance and support. It also does not adequately protect children's human rights. The guidance is in the wrong place to begin with, and its content, size and nature are inadequate. We think that, in order to deliver the human rights protections that are required, it is inevitable that guidance will need to be put on a statutory footing.

The Convener: In his most recent submission, the Deputy First Minister said:

"There is a risk that any stand-alone guidance would increase the risk of inappropriate or unsafe use of physical intervention and restraint because it"

would not be

"embedded within overarching policy/practice".

Do you recognise that risk?

Bruce Adamson: The concern is that the guidance is already inadequate and is getting lost within the overarching guidance, which is about exclusion. That is the wrong place for it. I do not agree with what the Deputy First Minister said about having stand-alone guidance. Having rights-based guidance that starts with the rights of the child and which sets out a comprehensive framework for supporting the child within the contexts of additional support needs, disability and so on is a positive thing. I struggle to understand why creating a new comprehensive framework that is rights based and which supports the child would in any way make things more confusing. In my mind, it would make things much more simple and clear for people who work in school settings with children and young people. Teachers and support staff would know that they have that guidance.

It is very clear that the guidance needs to be statutory and have the force of law and that people need to know that they can be fully trained up on it and understand it, rather than its being set within the context of other guidance, which it is a very small part of and is already getting lost in. I do not agree with the Deputy First Minister that having it standing separately outside creates more risk. That approach is required in order to deliver on children's rights.

09:30

Gail Ross (Caithness, Sutherland and Ross) (SNP): Good morning, panel. Mr Adamson, you said in your report, "No Safe Place", and mentioned in your evidence, that restraint and seclusion should be used as an absolute last resort. You talked about de-escalation techniques that should be used before that. Can you give us an understanding of what those techniques might be? Do you have any evidence of good practice in the training of those techniques in schools?

Bruce Adamson: The measure of last resort is something that is consistently found across international human rights law. Such a protection is found in the European convention on human rights, in the United Nations Convention on the Rights of the Child, the disability convention and the convention against torture—it is a very well understood part of human rights law. It needs to be set in context. It is not the last resort available at that time; we need to look right back to the start and ask, "What can the state do to ensure that we never get to that point?" rather than saying, "At this moment the only option that is available is the use of restraint and seclusion." We need to look back further even than de-escalation, because once the situation has escalated, mistakes have already been made. The starting point is knowing the child. There are some good examples, which Beth Morrison might be able to speak to, of some of the aids that we use, such as the passports that help us to understand the child's needs, how they communicate and the things that might trigger their action. It is about understanding trauma and taking a trauma-informed approach. All those communication techniques and supports are the most important things in keeping us away from the last resort.

We must try to not even have a situation where things escalate, and we then also need to have a lot of support for de-escalation and minimisation techniques. All the good practice around that involves having a relationship, building knowledge of why a child is displaying this distressing communication behaviour. It needs to be set within that distressing behaviour. That can present challenges to adults in dealing with it, and they need training and support, but it has to be set in the context of understanding that the child is communicating distress. The de-escalation and minimisation techniques that follow need to be based around that. There will be circumstances in which you have to use a last resort, but you should in every case be able to evidence the things that you did right at the start—"We worked very hard to know this child and understand their behaviour. Here are all the things we did". Last resort is not just what is available on the day, at the time; it is part of a story about what you have done to work

with the child. Beth Morrison may have specific examples.

Beth Morrison: Yes. We have to train staff and equip them with the skills that will help them in the classroom. They should be trained in proactive strategies. We hear a lot about de-escalation. As Bruce Adamson said, by the time you resort to de-escalation, you have lost it. You have to be proactive in understanding how the child communicates. We use a communication passport, which my colleague Kate Sanger and her daughter developed for Laura—I think that Mr Swinney shared it back in April 2017. It has all the details of what the child likes, what they do not like, how they communicate, and what their diagnosis is and how it affects them. It is very much about understanding the child and giving the staff the information that they need in order to support the child.

We also have a bespoke positive behaviour support plan, which is based on a traffic-light system. For example, green is what you want your child to be. What does the child look like when they are green? They are happy, chatty and smiling. Amber sees them moving into anxiety; things are not going well. Are the lights too bright? Is it too noisy? Do we need to change the environment? Do we need to change the task that the child is doing? Do we need to change the person they are working with? All those things are put into place before you get to red, which is when the child is really beginning to escalate. It is all about meeting the needs of the child in a proactive way.

Our staff are given training in restraint; we have already said that it is the wrong kind of training because staff tend to use it as a first resort. When Kate Sanger and I did the data, we collected 430 case studies from families and we found only one instance of a last resort. A child was trying to leave the building and run into a road, for which they did not have the road safety sense or understanding—to us, that was a last resort.

I am afraid that we also saw a lot of children being subjected to restraint and seclusion as a punitive measure. The reasons that were given for the restraint and injuries included non-compliance, refusal to do as they were told, shouting, cheek, disobedience and non-specified behaviour—those are not last resorts. We should remember that we are dealing with the most vulnerable children; they have disabilities and very little in the way of communication—they have no verbal language—so their only way to communicate distress is through their behaviour.

When my son Calum was at Carnoustie high school in Angus, a communication passport was used. We never had any problems with restraint or seclusion at the school; the staff understood his

needs and met them. Most of all, he was happy, and happy children do not challenge.

Nick Hobbs: The compelling data that Beth Morrison and Kate Sanger have pulled together illustrates an important point that also came out through the investigation report, which identifies examples of good practice in local authority policies when we discovered them. In meetings that I was in, teachers and classroom assistants talked about specific approaches that they have used in their schools that sounded really positive. A few weeks ago, the headteacher at the Pitteuchar East primary school in Fife, Jennifer Knussen, told me about exactly the point about banning the term “challenging behaviour”. She recognises all behaviour as distressed behaviour, looks for the underlying causes and responds in a human, compassionate and empathetic way.

We lack national guidance to enable good practice to be identified and rolled out consistently to provide the level of support and empowerment that headteachers such as Jennifer Knussen, teachers and classroom assistants need in order to be confident that what they do is good practice.

Gail Ross: My final question off the back of that answer is about the passport, which obviously works very well. Would Beth Morrison like it to be in initial teacher training and rolled out through continuing professional development and put into guidance? I know what the answer will be.

Beth Morrison: That would be fabulous.

Gail Ross: Basically, that would be a trauma-informed approach to everything that we do in education.

Beth Morrison: Absolutely, yes.

Bruce Adamson: That approach would bring benefits not just for the children who are at risk of restraint and seclusion. It is just good practice for work with children and young people, because it is a rights-based approach.

It is good that teaching unions—the Educational Institute of Scotland and Unison—have been very positive about the report. We made it very clear in the investigation that it was not intended as an attack on teachers or support staff but was to recognise the failures to put in place the support, training and guidance that they needed. The positive responses from teachers’ organisations and others have recognised the value to their members of providing that additional support. Nobody enjoys escalation to restraint and seclusion; the trauma that we put on teachers and support staff when things escalate to that level has to be addressed as well—we have to recognise that as a human rights issue. We are pleased that we have had such good support from the people who provide key support to children and who are

calling out for more support and guidance to make sure that it works effectively.

Brian Whittle (South Scotland) (Con): Good morning to the panel. This issue has already been alluded to; in his most recent submission, the Deputy First Minister said that, in the work of local authorities,

“there are ... clear examples of good practice being implemented across Scotland.”

Do you agree with the Deputy First Minister’s view? Are you aware of particular local authorities that demonstrate good practice?

Bruce Adamson: We can certainly draw that out from our investigation, and Beth Morrison has some good examples. We have had good engagement with local authorities; they have received the investigation report quite positively, even though it is very critical of the current arrangements. I have met the local authority chief executives collectively and a number of them individually and there is good engagement on this; there is a desire to formulate good practice. The challenge is making sure that that good practice is nationally consistent, hence the need for proper guidance, but we can draw out specific examples.

Nick Hobbs: In the investigation report, one of the examples that we drew out is from Dumfries and Galloway, which has a section in its recording forms asking staff to consider how their actions support the child’s best interests. That draws directly on article 3 of the UN Convention on the Rights of the Child. That is a positive way of making human rights real in the process that staff go through. Another example is from Fife, which is one of the few authorities that recognise that seclusion creates a significant risk of unlawful deprivation of liberty for children in relation to article 5 of the European convention on human rights.

We have also done some follow-up work recently with the authorities that we identified did not have policies in place. Renfrewshire, which was one of them, has sent us its draft policy, which it is working on. There are some really good elements in that, with much greater recognition of children as rights holders. There is still some work to do on it and we had some constructive feedback for Renfrewshire on the policy, but it felt like a positive step forward.

I agree that there are examples of people doing their best and of people trying to take this approach but, as I said before, the risk is that we end up with 32 different interpretations of what good practice is. What we need is a much greater ability to have consistency across Scotland so that children are getting the same level of human rights protection whether they are in a school in the Borders or in Shetland.

Brian Whittle: To square that circle, would you suggest that there is a significant level of disparity between the approaches of different local authorities?

Nick Hobbs: Yes, and that came out in the report. It is as basic as different definitions of restraint being applied across different local authorities, with different understandings of what it means and different ways of recording and reporting data. We found a wide range of approaches and a lot of inconsistency. That makes it difficult to get a sense of what is happening across the country.

We would very much take the view that the level of restraint and seclusion within Scotland’s schools is a pretty good barometer of the health of our education system, along with a number of other things such as the level of exclusions. It tells us something about how well our education system is working for those children who are the most vulnerable, so not being able to have a consistent picture and understanding of good practice is a real issue and it needs to be solved.

David Torrance (Kirkcaldy) (SNP): Beth Morrison, in your submission in August, you highlighted the lack of representation in the short-life working group on the use of physical intervention of experts in learning disabilities, the Mental Welfare Commission for Scotland, the Equality and Human Rights Commission and the ASN tribunal service. Do you want to share your concerns about that?

Beth Morrison: Yes. I was invited along to the Government’s short-life working group and, when I saw the list of participants, it seemed to be very top heavy. I have always said that we need the right people with the right expertise to write the policies and, to me, there were key figures missing from that short-life working group. I believe that we should have had learning disability expertise in there and we should have had somebody from the Mental Welfare Commission, from the ASN tribunal service and from the Equality and Human Rights Commission. I felt that, in the absence of those people, we would not be able to write the policy. We did not have the right people with the right expertise to give the Government the information that it needed to write the policy, so I had to decline because I felt that I would be overruled on anything that I said. That was a tough decision for me, because I am very nosy and I wanted to know what was going on but, in the end, I felt that I could not participate.

09:45

Nick Hobbs: As we have said, we are looking for something much more substantial than a refresh of existing guidance. We want the best

possible guidance that seeks to reduce the need for restraint in the first place.

We therefore expect the approach to putting together a working group to be based on looking at who the stakeholder groups are in the first instance—certainly local authorities but also children and families need to be part of it—and then considering the particular skills and expertise that need to be assembled to get the best possible guidance. As Beth Morrison has already said, that expertise should be in additional support for learning, trauma-informed practice, and child protection and safeguarding, a lot of which we have already talked about. There were some gaps in the Government's understanding of who should be part of that working group. We are looking for the Government to commit to national guidance and a working group that is able to deliver the best possible quality of guidance.

The Convener: Was the commissioner invited to be part of that group?

Nick Hobbs: Yes, we were.

The Convener: You declined.

Nick Hobbs: We declined because we were clear that the group was not going to deliver the level of human rights protection that children—

The Convener: It was not therefore a question of whether the membership was right, which was the petitioner's argument. You do not think that the short-life working group should exist.

Nick Hobbs: We do not think that a refresh of IEI2 will deliver adequate human rights protections for children. We agree—

The Convener: Did you not think that it would have been worth engaging with the Government even to make that point through the vehicle of the short-life working group?

Nick Hobbs: We are engaging with the Government through other means. We have met the Deputy First Minister and his officials. That is our route to communicating—

The Convener: You have had one meeting with him.

Nick Hobbs: We have had one meeting with him.

The Convener: Is that as useful as being part of a group, even if it is limited? Would arguing for change in the group's membership not have been more productive?

Nick Hobbs: The key issue is about what the Government is committed to. We need the Government to commit to national guidance. As long as the Government is committed only to a

refresh of existing guidance, we do not feel that that is a—

The Convener: Do you not think that the children's commissioner has a role in the conversation about the more general policy area around what is acceptable physical intervention for young people in our education system? Would it not have been worth being part of that group? You might not think that it is going to solve this problem, but do you not think that it would be worth being engaged in the broader policy development that is going on in that group?

Nick Hobbs: The group was put together specifically to refresh IEI2 with a view to—

The Convener: And do you think that there is no role for IEI2 in our education system, separately from whether it has a role in addressing the concerns of the petitioner? You do not think that the Scottish Government should be working on that policy as it affects any young people.

Nick Hobbs: The only reason for the working group was to look at refreshing the restraint part of IEI2. It is not about a broader refresh of IEI2 and the guidance; it is looking at that particular element and the two pages on restraint and seclusion.

The Convener: What if it was dealing with restraint for young people who do not have learning disabilities? Am I missing something here? Do you not think that the Government should refresh IEI2 at all?

Nick Hobbs: We are not talking about IEI2 as a broader piece of work. We are talking about the two pages on restraint and seclusion. The purpose of the working group was to look at those two pages and make minor amendments to them. As we have said, we are clear that that will not deliver the required human rights protections for children, and it will not take us any further forward than where we are already, so we do not see any purpose in—

The Convener: Would there not have been a place for the commissioner to be involved in the discussion around the human rights-based approach in that group? Are you saying that there would have been no point in having that conversation?

Bruce Adamson: In our day-to-day work, we are constantly seeking to hold the Government to account to the highest standards of producing quality law, policy and practice. The best way of doing that is to engage the Government by holding it to account. The Government has significant—

The Convener: I might be taking us down a rabbit hole here, but you chose not to participate in a working group that the Government invited the commission to be part of. You chose rather to

have a one-off meeting with the Deputy First Minister and his officials.

Nick Hobbs: No. To be clear, it was a one-off meeting in the context of other discussions through correspondence and discussions with officials. I expect to have another meeting with the Deputy First Minister in the next couple of weeks because those negotiations with the Government are on-going and have taken a positive turn in recent weeks. It is not a one-off discussion; it is an on-going negotiation process, one part of which was a meeting with the Deputy First Minister.

Bruce Adamson: We used our investigation powers for the first time. They are a significant legal power that Parliament has given us, and we have been holding the Government to account. However, there are sometimes risks in becoming part of the Government's process of policy development, because we can become captured by that process. We need to exercise a level of independence and we need to require the Government to have that expertise, which it has the resources to bring in. I am, however, cautious about becoming an agent of the Government by being too involved in policy development.

The Convener: Do you think that you have a role in recommending other people to be part of the working group? I can see that you might not want to engage directly, but did you make suggestions about others who might be involved in the group?

Bruce Adamson: We have been in fairly constant discussion on this issue, as you might imagine. As Nick Hobbs said, those discussions have become more positive. We are always happy to be involved in that, but we are clear about the skills that the Scottish Government needs to take a human rights-based approach. Across all of our work with the Government, we have been consistent in saying that there is an obligation on the state to make sure that it has the expertise and that it brings it in.

The Convener: You are engaging directly with the Deputy First Minister on your report.

Bruce Adamson: Yes.

The Convener: Is that engagement specifically on how the Government will implement your recommendations?

Bruce Adamson: Yes.

Beth Morrison: Before I declined the invitation to go on the short-life working group, Kate Sanger and I met a Government official and someone from Education Scotland. They were very clear that statutory guidance was off the table. They said that, if I want statutory guidance, I might be better not being part of the short-life working group.

I have always been clear that we need statutory guidance. Can you imagine the Government allowing a council to follow its own policies within a framework of voluntary guidance on discrimination on the grounds of race, religion or sex? That is not voluntary. To me, this is a matter of disability discrimination. We are talking about children who have disabilities being disproportionately affected and I feel strongly that we need to protect those children in law.

When I met the Government official and the lady from Education Scotland, they were clear that statutory guidance is not on the table. That is why I declined.

The Convener: Maurice Corry is going to ask about statutory guidance.

Maurice Corry (West Scotland) (Con): I must declare that my wife works as an ASN special educational needs classroom assistant in primary schools, and she deals with these cases, so I hear all about this quite a lot of the time. It is a difficult subject, but it needs to be addressed.

I want to address my question to Beth Morrison. In your recent submission, you said that you now firmly believe that we have no choice but to call for a robust statutory framework. Are you still of the same view?

Beth Morrison: Absolutely, for the reasons that I have given.

Maurice Corry: Was it a bit of a shock when the officials told you that it was off the table and there was no question of that happening?

Beth Morrison: Yes, it was. I was shocked.

Maurice Corry: Do you agree that the only way to ensure that guidance is followed is to make it statutory?

Beth Morrison: Yes, I do.

Maurice Corry: What are your reasons for that?

Beth Morrison: I have been doing this for nine years. It is almost five years since I was here the last time, in March 2015. In the two years since June 2017, I have collected 430 case studies from 32 councils involving children who have disabilities. Every single one of the children I am talking about has a disability. There is not a single neurotypical child in those cases. The data is horrendous. Injuries are being inflicted on the children. Staff are not being supported and they do not have the skills, training, or resources to support the children.

We got IEI2 in June 2017, and I welcomed it at the time. I also said that it was a start but that it did not go far enough. How many more children do we have to see being injured, being dragged along corridors and being held forcefully enough to

cause bruises, scratches, abrasions, broken limbs, noses and teeth? How many more children do we have to see being hospitalised on oxygen because of restraint? Will it take a death in a Scottish school to ensure that such things no longer happen to our children? Of the children whom I represent, 26 per cent are only six years old, 17 per cent are five and 18 per cent are seven. How much longer do we have to wait until those children enjoy protection in law?

We all recently welcomed John Finnie's bill, which is commonly known as the anti-smacking bill. How can it be that a parent could be criminalised and prosecuted for smacking a child on the back of the hand when children are being restrained in schools with such force that it causes them injury, with no accountability. We now have a two-tier system in Scotland and we have to have a level playing field. All children need to be protected in law—that is why I am still here.

Maurice Corry: Those points are interesting. Can I take it from what you are saying that you feel that the staff who are at the coal face dealing with a child do not get support from further up the chain of command? I am referring to the school and the headteacher, not the area manager. Did that come out in your 432 replies?

Beth Morrison: Yes, unfortunately.

Maurice Corry: So the problem is local.

Beth Morrison: Yes. I will be clear that the additional support needs staff on the ground are fabulous. They want to do a good job. However, they are at the bottom of the food chain, if I can say that. They are the least supported and they are probably the least skilled academically. I do not mean that to be derogatory at all, but they are not given the training or expertise. In a lot of local authorities, an additional support needs assistant does not need to have had any training or have any qualifications. A lot of mothers are employed, but they do not have the skills to understand how children with disabilities communicate and they are left to cope with very little support.

In fairness to headteachers, I think that a lot of them want to do their job, but they have limited resources. There are no training opportunities. There is usually training on restrictive practice, but the staff are not trained on proactive measures.

My small charity offers very low-cost training to families. When we do our training sessions for families, they are often outnumbered by staff—additional support needs staff and teachers—who come to me at the end of the session and say, "I have learned so much from this." They pay very little money for it—often it is free—because it is not about resources but about giving people the skills and supporting them to do the jobs that they love.

Maurice Corry: This is quite important, so—if I may, convener—I will ask a supplementary question about offering the courses. What has been the reaction of the local authorities?

Beth Morrison: I do not have any dealings with local authorities and do not get any funding from them.

Maurice Corry: I understand that point, but have you had any feedback from local authorities or local schools?

Beth Morrison: No—well, that is not true. In Angus, where I live, I will be delivering training. The local authority has come to me and said, "Beth, we would like you to do training for our staff in Angus," and we are going to do it next month.

Maurice Corry: Mr Adamson and Mr Hobbs, in your conversations with the Deputy First Minister, does what Beth Morrison is doing ever come up in conversation at that level? Is it ever discussed?

Nick Hobbs: Yes.

Maurice Corry: What is the reaction?

Nick Hobbs: I think that the Deputy First Minister is well aware of the work that Beth Morrison and Kate Sanger have done on the issue over the years. I think that they do a hugely valuable job—

Maurice Corry: But what is the Government's reaction?

Nick Hobbs: Kate Sanger would know better than I do, as they have had direct conversations.

The Convener: That is something that we can pursue, rather than you having to convey conversations. I will take another couple of questions before we wind up.

Brian Whittle: Although a lot of what I was going to ask about has already been said, I note that I have a friend who works in this area. A more loving person you could not meet, but they are assaulted on a daily basis and have little support from—if you like—the system. My concern is this: if they are forced to implement statutory guidance, do they have the time to gain the training and knowledge, and do they have the support to implement statutory guidance?

10:00

Bruce Adamson: That question cuts to the heart of the matter, in that it is an obligation on the state. In my introduction, I talked about all the rights that are being breached here. It is the Government's job to ensure that resources are made available to ensure that everyone is fully trained and fully supported and that there is very clear guidance. It is a rights obligation on the state to ensure that all the good practice that we have

talked about happens. The responsibility for that seems to be getting passed down and down, so we get a breach of children's rights because the support has not been provided right from the top. The obligation sits at the top.

It comes down to putting in place very clear guidance and support and making funding available for support and training; that is, the type of training that we talked about earlier in relation to communication passports and understanding communication needs, so that things do not escalate to anywhere near the level where teachers and support staff are being assaulted. The way to reduce that is through training on early communication support needs, and that requires leadership and funding from rights duty bearers—the Government and local government.

Nick Hobbs: It is striking how constructive the conversations that we have had with the EIS and Unison have been. Most recently, I spoke to Unison last week, and it reflected exactly that point: namely, that the significant number of classroom assistants it represents are not, at the moment, getting the time to do the right training and to be supported to understand the child, so that they can respond to the child's needs in a way that does not result in situations escalating and their ending up being assaulted. Unison very much sees national guidance and recording and reporting requirements as protective measures for those staff, because they will require space to be made available to allow the staff to engage in reflective practice and to get the support that they need to do the job in the way they want to be able to do it.

Gail Ross: Nick Hobbs touched on how it is about support. It is not about attacking teachers or saying that they are doing things wrong, but about asking how we can do things better. We are about to incorporate the UNCRC into Scots law. Would that not almost force the Scottish Government to address the situation, if it has not already done so by then?

Bruce Adamson: The huge strength of incorporating the CRC, which is the most important thing that we can do to protect rights, will be to make those rights more enforceable. It will give us extra levers to apply, particularly through the way in which the convention is constructed. Article 4, for example, requires the state to demonstrate that it is using all available resources to ensure that children's rights are met. That is, the convention requires additional demonstration of the meeting of obligations, which would give us additional power to hold the Government to account on things such as budget setting and guidance.

Although we have legal means available in some circumstances at the moment, which we

would always look to explore, CRC incorporation would hugely strengthen our ability to ensure that children's rights are met, which is why it is such a high priority. The children who will most benefit from incorporation are those whose rights are most at risk. When we consider the rights breaches that we have been discussing this morning, that is very important.

It is important to note that the experience of other countries that have incorporated the CRC shows that we end up with much better decision making and budgetary processes, and with things being done proactively, so that it does not lead to additional litigation. We would not see CRC incorporation as a tool to litigate against the Government; rather, it will require a change in the way in which decisions are made, particularly on things such as funding and support and guidance, because there is a clear requirement in the CRC for the Government to demonstrate that it has done all that it should have to ensure that children's rights are met.

The Convener: Will the commissioner confirm that the guidance should be statutory?

Bruce Adamson: Yes.

The Convener: Has the Deputy First Minister told you that the possibility of statutory guidance is off the table, or are officials conveying a message that might not actually have come from the Government?

Bruce Adamson: Discussions with the Government are on-going. It would be fair to say that, since the report on the investigation was issued, Government has come a long way in some of those discussions. It would also be fair to say that we were somewhat disappointed with the Government's initial response. However, those discussions are proving to be useful as they go on. I am not sure whether a fixed decision has been made.

The Convener: So you are not aware that the Deputy First Minister has ruled out the suggestion as an option.

Bruce Adamson: I think—

The Convener: I hear what you say about the working group—the petitioner will not go on it—but, in terms of the fundamentals, it seems that the petitioner had already been told that statutory guidance is not an option. I want to know whether you have had that confirmed by the Deputy First Minister in your conversations, or whether you believe that the Government is still considering that as an option.

Nick Hobbs: I would say that the Government's strong preference, as far as I understand it, is for there not to be statutory guidance. However, that

is still part of the negotiations and discussions that we are having with the Government.

The Convener: Commissioner, will you be engaging with the budget process? It seems to me that rights are enforceable only if you deliver the means by which they can be enforced. The petitioner gave an interesting example of the contrast between what is being allowed in the system by way of restraint and what is in a piece of legislation that the Scottish Parliament has passed relating to young people being equally safe. Do you plan to undertake an analysis of the budgets taking account of the fact that it might be impossible to enforce those rights if the budgets are not there to deliver that enforcement?

Bruce Adamson: You make a good point. Our focus at the moment is on the incorporation into law of the UN Convention on the Rights of the Child. However, the general measures on implementation that the UN set out for the convention include things such as impact assessments and rights-based budgeting. A lot of work is going on globally in that regard, and we are starting to do work on models of rights-based budgeting and analysis. A lot of our focus is on trying to provide decision makers with those tools.

We are an office with limited resources in terms of the analyses that we are able to do on various elements of the budget, but—

The Convener: But you accept that having that conversation around what needs to be done in budgeting terms to deliver on the incorporation of rights is pretty important and would be at least as effective as going to the courts to support somebody to ensure that the law is enforced.

Bruce Adamson: Children's rights-based budgeting is key. We have a long way to go before we are able to provide the tools that will allow decision makers to do that. Over the next few years, we are going to put a lot of emphasis on the measures of implementation that go along with incorporation, particularly with regard to developing rights-based budgeting and models that will work in that regard, and ensuring that decision makers have those tools and understand the obligations that have been placed on them. There is work to do there, but the key thing is to ensure that people who set and deliver budgets have got the training in and understanding of the tools that will enable them to deliver proper rights-based budgeting. We are quite a long way away from that at the moment, but assisting decision makers to take that approach will be a priority for us.

We can think about doing budget analysis, but what is really important is changing budget processes. Again, there are not many good examples of the voice of the child being part of

those processes to enable people to understand children's rights.

The Convener: I am just thinking that, if you believe that people on the front line are not suitably resourced, trained and supported, would you intervene if you saw that there was a cut to the education budget?

Bruce Adamson: Yes, and we have commented on that. Following incorporation, there might be legal mechanisms that would enable us to intervene in that regard. However, at the moment, we draw attention to those matters across a number of rights issues.

Some of the young human rights defenders we have been working with over the past few years have raised issues about funding cuts to areas such as music tuition and transport support in rural areas. Through the human rights defenders work that we do, we can see that many of the risks to human rights come from budgetary cuts. Therefore, we try to support young human rights defenders to bring attention to areas where cuts risk breaching children's rights.

The Convener: I think that it is time for us to come to a conclusion. Thank you for your evidence today and for all your written evidence, which helped to inform our thinking.

Quite a number of issues have been flagged up, and we will take an opportunity to reflect on the evidence that we have heard today. Do members have any suggestions for further action?

Brian Whittle: I have been listening to the evidence and thinking about the practicalities of the implementation of statutory guidance. I work across three council areas, and three more disparate approaches to this issue you could not find. It strikes me that, if we are going to properly educate people, that represents time away from the classroom, and we all know the pressures that our educators are under as it is. The evidence that we have heard opens up a lot of questions about the whole education system.

Of course, I am not a legal mind, but the other thing that strikes me is how problematic it is to define what the statutory guidance should be. That is a separate question from that of implementation.

I am afraid that my view is that we probably have to speak to the cabinet secretary again.

The Convener: The fundamental thing that is coming out of the evidence today is that there is at least a question mark around whether the Deputy First Minister has set his face against a clear request that the guidance be statutory and, if he has, why he has done that. I think that there has been a change in the dialogue because, previously, it looked like there was an option to refresh the IEI2 guidance but, clearly, the

message is that that is not sorting the bit of the problem that was raised in the petition.

A lot of work has been done on the petition, and we are aware that it has been with us for some time. We do not want to keep going round and round on it, but it would be useful to hear what the response of the Deputy First Minister is to the commission's report and to the specific and strong request that there be statutory guidance. It would be worth exploring whether there has been an assessment of the doability of that.

As Brian Whittle suggests, we could invite the Deputy First Minister to give evidence at a future meeting. We have heard that the Deputy First Minister is having a conversation about certain specific issues, so we could perhaps hear from him about those. In making that request, we should say that we recognise that he is a busy man but that it would be useful if we could have that meeting in a reasonable timescale, especially given the publication of the commissioner's report.

Do members agree to that suggestion?

Members *indicated agreement.*

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

10:13

Meeting suspended.

10:17

On resuming—

Youth Football (PE1319)

The Convener: The next petition for consideration today is PE1319, on improving youth football in Scotland, which was lodged by William Smith and Scott Robertson.

When we last considered the petition, we agreed to take evidence from the Scottish Football Association and the Children and Young People's Commissioner Scotland at a future meeting. Joining us again is Bruce Adamson, commissioner. I also welcome Diego Quiroz, acting head of strategy in the commissioner's office. We move straight to questions.

You will be aware that the former commissioner undertook a substantial amount of work to consider the regulation of youth football from a rights perspective. We note from your correspondence in March that you do not intend to continue that work. There have been discussions and revelations about young people being abused in youth football. Do you accept that, in football in particular, there is a unique context for what has happened and that young people are manipulated

because of their dreams? Some of that is to do with young people caring so much about and having such ambition for football that they may end up in a place in which they feel exploited but are almost accepting of that as part of that experience. Do you accept that that is unique to football?

Bruce Adamson: There are certainly considerable human rights concerns across youth football, but I would not necessarily say that those matters are unique to football. We have to set what you are talking about in the broader context of child protection. There is a lot of child protection work that we need to do across Scotland in relation to everyday life, particularly in sport, and football is a big part of so many young people's lives. The issue speaks directly to their rights to education, association and play; it also speaks to their rights to child protection. The previous commissioner—quite rightly—put considerable resources into looking at the petition and supporting the Public Petitions Committee and the Health and Sport Committee in their roles as human rights guarantors in holding to account those in power in order to protect our children.

The May 2015 report is a strong piece of work by the commissioner's office and raises a number of issues relating to the petition. Obviously, much more detailed discussions are going on in other places about child protection in football, which have played out in the media. I have commented a number of times in the media and have worked with civil society partners on child protection issues.

A number of different aspects are involved. Some are to do with economic exploitation and rights' breaches, as discussed in the petition; there are also broader and more complex issues to do with child protection.

The commissioner's office has raised important rights issues in the report. This committee is doing broad work, and the Health and Sport Committee has an important role, as does the Government, in following up the recommendations.

The Convener: The Health and Sport Committee is doing no further work on the matter. I assume that you accept that the issues that were raised by the previous commissioner have not been resolved.

Bruce Adamson: Yes—I accept that they have not been completely resolved.

The Convener: There is evidence that young people are not even getting the national minimum wage, and that has been signed off. The evident exploitation has not been addressed. Young people in football—right now—are vulnerable because of the particular relationship with those in authority. Do you accept that? If you do, why do

you not think that there should be a continuing role for the children's commissioner to ensure that the issues are addressed?

Bruce Adamson: I cannot speak to the Health and Sport Committee's—

The Convener: Its work has concluded. It produced a worrying report, but we know that it is not doing any further work on the matter. The previous commissioner produced work that highlights concerns, which are unresolved. Why do you think that it is no longer the commissioner's role to address those concerns?

Bruce Adamson: It is not that I do not think that that is the commissioner's role; it is that I think that the value that the role can add is to do that rights analysis and provide that powerful evidence to decision makers. The Parliament has a role as a human rights guarantor. The important work of this committee, and of the Health and Sport Committee, in whose remit the issue sits—

The Convener: With respect, it does not sit within the remit of the Health and Sport Committee. It sits in the context of young people being exploited economically and personally, because of the unique nature of football in this country. The previous commissioner raised concerns; he thought that some things could be addressed through regulation, for example, but those things are not being progressed. What meetings and discussions have you had with the football authorities about whether the recommendations or concerns of the previous commissioner have been progressed?

Bruce Adamson: Not long after I came into the role, I spoke publicly about child protection concerns in relation to football, particularly in the context of some of the very concerning breaches of children's rights. Following that, I met the Scottish Football Association, where I discussed a number of things. I canvassed many of the issues, I reiterated the concerns and I had discussions on progress.

We have also been working with Children 1st, which has been leading on the child protection element, so we are working closely with civil society partners, who are progressing that element. We have also been working with Government in relation to that, particularly on the cross-sectoral child protection improvement programme. We have been ensuring that, across the board, there are much better child protection systems in place for all children, and particularly for those in sport and football. That will always be part of our work.

We have also worked with the Scottish Human Rights Commission on the national plan on business and human rights. As you point out,

there is a concern about the imbalance of power between business and children—

The Convener: Sorry, can you clarify how many meetings you have had with the football authorities?

Bruce Adamson: One.

The Convener: When was that?

Bruce Adamson: It was in October 2017.

The Convener: The previous commissioner said that there are serious concerns in football, around economic issues, the violation of young people's rights and the potential for young people to be exploited simply because of the nature of football, yet you have had one meeting with the football authorities.

Bruce Adamson: I felt that we had made the recommendations very clear to the Parliament—

The Convener: But you were not concerned about following those recommendations up.

Bruce Adamson: We felt that they were before the Parliament and further work was being done. In setting the priorities for the office when I came in, we consulted very widely with children and young people and with civil society, and built up a workplan around that. That led to such things as using our powers to do an investigation into restraint and seclusion, which we discussed under the previous petition—

The Convener: I think that we accept that that example is very illustrative of the importance of human rights and the gap between what the Government says and what it does. I will let other members in in a moment, but I have been very struck, and I think that committee, in all its iterations and with all its different members, has been very struck by the centrality of football to young people's ambitions—those of young boys, in particular. Young people can be financially exploited and vulnerable, and we know that, in the cases of abuse, they have talked about that power relationship, what the football coach can do to them and what that meant for their dreams. The fact that we have something here that is at the centre of Scottish life and is exploiting young people in that way—it is a place where young people can be exploited—is a huge issue. I do not think that I am putting words into members' mouths when I say that we were very encouraged by the willingness of the previous children's commissioner to say, as you have said on other issues, that the Government has to do something about this issue. Self-regulation is not working, but you, as the commissioner, have not even asked the football authorities whether their self-regulation is working. Is that right?

Diego Quiroz (Children and Young People's Commissioner Scotland): May I say something, convener? To go back to your key question, I think that there are some risks that are emphasised, unfortunately, in football and in sport, but they are not unique. There is economic exploitation, abuse, overtraining, substance abuse—

The Convener: With respect, I did not say, and nobody on this committee is saying, that it is unique. Nobody is saying that football is the only place where it takes place. A particular set of circumstances has been highlighted and we are asking why the children's commissioner is no longer engaged. If there has to be self-regulation, why is the children's commissioner no longer engaging even in a conversation about how the football authorities are changing their practice?

Bruce Adamson: My position is that there should not be self-regulation. The rights analysis has been done and the recommendations are before Parliament. The work that we are doing more broadly on child protection and on business and human rights will certainly have an impact on the issue, but in terms of finding the best value for our limited resources, the focus needs to be on ensuring that we do the thing that we are good at, which is the rights analysis. We then pass that to decision makers and those who can hold the Government and the SFA to account.

The Convener: So you do not have a role when the law has been broken. Our evidence tells us that the law around the minimum wage for young people has actually been broken. You do not have a role in that, specifically in relation to young people.

Diego Quiroz: Absolutely not. When the law is broken, it is up to the Government.

The Convener: If human rights legislation was broken, you would engage in that, would you not?

Diego Quiroz: We do not have those powers, unfortunately.

The Convener: Are you saying that you do not have the power to comment on it?

Diego Quiroz: Yes, but we feel that—

The Convener: You are no longer going to be commenting on it. Is that right?

Diego Quiroz: We have commented on it and we continue to comment and engage with the committee in a way that supports the previous work, which was very important in identifying the issues and providing a set of recommendations to the Government, to the Parliament and to the football authorities. It is up to them to take action on that: we do not have any enforcement powers to take those actions forward.

The Convener: So although in our earlier session you specifically said there is an on-going conversation with the Deputy First Minister about your report on restraint, you are not having those conversations about the report on the regulation of football.

Bruce Adamson: With the investigation, we used legal powers, which require a response—our legal powers require a response from Government—and we laid the report before Parliament. Those conversations are happening very much in that space, whereas the previous report was a report to this committee. The broader work that we are doing certainly supports this—

10:30

The Convener: We need to hope that you do an investigative report and then it would have authority.

Bruce Adamson: I feel that we have done a report to Parliament, so—

The Convener: But you have already said that such reports are limited, in contrast to the report on restraint. I am not setting one up against the other; the evidence that we got earlier was compelling and important. However, you have made an active choice not to do an investigation into this field, where there is evidence of the potential for abuse, evidence of abuse and evidence of the economic exploitation of a group of young people. You are not going to do a report on that and you are not meeting the authorities even to check with them that they are pursuing the issues that were raised in the previous commissioner's report to Parliament.

Bruce Adamson: When we do investigative reports, the key is that we are looking for gaps. With the report on restraint and exclusion in schools, we used our legal power for the first time ever because we saw a clear gap in the available evidence base and we needed to compel that evidence.

When, in 2015, the office did a report on youth football, the feeling was that a legal investigation was not needed because the office could get the necessary information. That report was then given to Parliament, with the view being that the issues raised could be taken forward by Parliament.

On our future role, we have to be clear about what particular value the role of the children's commissioner has, as opposed to the role of members of Parliament as human rights guarantors, acting through the various committees to hold Government to account. We need to be clear about the particular role that we can play. With this petition, which is focused on the economic elements, the recommendations were

clear. The work on child protection is much broader—

The Convener: With respect, you have not had a conversation with the football authorities about whether they continue to pay people £1 a week. You have not had that conversation.

Bruce Adamson: In the conversation that we had previously, we talked about that, but we have not had any follow-up conversations.

The Convener: Okay. My apologies for hogging the discussion. Brian Whittle has some questions.

Brian Whittle: Thank you, convener. A lot of the questions that I was going to ask are superfluous, because of the commissioner's intention not to continue the work.

My worry relates to the previous commissioner's statement, which was quite clear: the balance of power is stacked heavily in favour of football clubs rather than the best interests of the child, which leaves children open to exploitation.

My view is that, in the case of 15-year-old players, some—and I will say some—of the powers that be view multiyear registrations, which we can argue could restrict young people's life choices, as protection of an asset; they think in those terms rather than in terms of child protection. I do not know what your view is on that—actually, I hope that I know what your view is on that, but I will ask the question anyway. The power rests with the club, not with the child—and, without question, we have heard evidence about the focus being on the protecting of assets rather than on looking at child protection. What is your view on that?

Bruce Adamson: I think that I need to be clear that there was not a future programme of work; the programme of work was around the creation of the report, which we looked at, but there was not a clear programme of work laid out when I arrived in the office. It is not that we will never engage with these issues; it is just that there is not a current programme of work in our work plan that builds on that.

Your point is absolutely central in rights terms. We need to start by talking about the fact that these are children and they are entitled to the legal protections that are provided under the international human rights framework and within our domestic law, which recognises that childhood is a time of special care and protection. That is one of the reasons why the UN convention on the rights of the child was created, and it is why it is such a high priority that we get the convention incorporated into domestic law. Doing so will give us additional levers to hold Government to account when it fails to provide protection for children.

The best interests of children should be put first. The examples around the impact on young players that came through in the report, which concerned restrictions on movement and being seen as an asset, are concerning. That is why there was a strong recognition that children do not have the same political or economic power as adults. We have the UNCRC because there is an inherent imbalance. When you start to include the commercial interests relating to football and the power that those interests have, that imbalance becomes even more prominent.

We have been doing work at a European level focusing on business and human rights, and we have also done some interesting work recently relating to children's rights in the digital world, in which we have considered the power of social media companies in relation to children. That provides an interesting analogy in terms of the imbalance between big, powerful companies and children.

We need to be careful around children's capacity to understand the nature of the relationship that they are getting into, bearing in mind that they will often agree to something because of their hopes and dreams, which the convener spoke about earlier, and, as a consequence of that, they are open to economic exploitation and further risk of harm.

Diego Quiroz: One of the valuable things about the report is that it highlights the point about the accountability gap that exists and the power disparity and asymmetry between big companies and children. That is reflected in the work that we do constantly, in that the issue of the safety of children as they participate in various activities cuts across a number of sectors. It would not be appropriate to focus only on football. On the contrary, by focusing on one area, we can learn from that piece of work. What we learn with regard to football will contribute to our work on the protection of children in all other areas, including what we are doing with regard to private actors in the digital area. The key rights that we identify with regard to football continue to be addressed by our office in all the work that we do.

Brian Whittle: From my coaching background—I have been chair of Athletics Coaches Scotland, I have been a level 4 coach for the past 20 years and I have worked on commissions and what not—I can say that not all sports have this issue and that a lot of sports take a much tighter approach. My problem is that football is unique in our sporting culture in that clubs can tie youngsters into long-term contracts.

There has been a lot of media attention on and investigation of the exploitation and abuse of children in a footballing context. Like the convener, I cannot get my head around the idea that the

commission would step away from the issue, given that amount of attention. Is there a role for statutory rights in the area? We are left with the petition, which has sat with us since 2010. My concern is that we have not moved on with it. There must be a role for the commission in relation to the issue, given the significant amount of attention that it is receiving.

Bruce Adamson: The obligation is on the Scottish Government. We hold the Scottish Government to account—

Brian Whittle: I am sorry to interrupt, but you are not holding it to account; you are asking us to do that, and we rely on people such as you for evidence that we can use. If people such as you step away from the issue, it will weaken our ability to hold the Government to account. We have to be able to call people to give us evidence in this room. I am, frankly, getting quite worked up about the fact that you are stepping away from the issue when it has not moved on.

Bruce Adamson: The issues that have been raised are clear. The questions that you can put to the SFA—I understand that it will appear before the committee—are clear. The rights framework is clear. What we are talking about is accountability, and the powers of the Parliament in that regard are strong. You can get people to give evidence to you and to be accountable in a way that I cannot.

It is important that those questions are continually put to the duty bearers who are responsible for them. In its communications, the SFA has set out that it has made some changes. Those need to be aired in the public forum of this committee, and I understand that they will be and that the SFA will be held to account by you. We need to ensure that the Government understands its role in ensuring that children are properly protected, too, and the broader work that we are doing with regard to incorporation of the UNCRC into the legislative framework helps with that.

Brian Whittle: We know that the legislation as it stands allows a certain amount of serious exploitation of children, if people choose to do that—again, I stress that it does not happen across the board. My concern is that, if the petition comes to an end, it will mean that those who are the exploiters will have sat it out and made it to the end of the petition process without there being a change.

Bruce Adamson: Indeed. It is important that the recommendations create a public dialogue and that we recognise that, more broadly, work continues in relation to child protection. With regard to economic exploitation, it is important that the issues are continually challenged within the context of business and human rights.

I stress that the main power that my office has is to report to Parliament to support you, as human rights guarantors, to hold those who are in power to account. That is what happened as a result of our work on restraint and seclusion. I work directly with children and young people across the country and with campaigners to try to amplify their voices, but the power that the Parliament has to hold duty bearers to account is a key element of what can be done.

Maurice Corry: I absolutely endorse what Brian Whittle said. It is truly appalling that there seems to be a lack of effort on the part of your office to take up the issue that Tam Baillie raised. He said:

“if we create a transfer market for children and young people we are treating them as commodities.”—[*Official Report, Public Petitions Committee, 23 June 2015; c 32.*]

That is appalling, and it is quite clear that nothing has been done. You are in a position to take action and go to talk to the SPFL and the SFA and hold them to account. It is a matter of logic. It does not take any brains to do that, so why are you not doing it?

Bruce Adamson: We have been clear that we support the recommendations. We have expressed that previously to the SFA. The position has not changed. However, the ability of Parliament to bring in those organisations and hold them to account is where the power lies. We have certainly not changed our position. The evidence that has been put forward in relation to the rights framework provides the commission—

Maurice Corry: Where is the barrier to getting some success in this? As the convener and Mr Whittle have said, the petition has been going on for years and nothing seems to have been done—or, at least, nothing seems to have been accepted. Are the SFA and the SPFL so powerful that we cannot talk to them or deal with them?

Diego Quiroz: The reason why we have done what we have done is that the issues have been identified and addressed—

Maurice Corry: But they have not been addressed.

Diego Quiroz: The report has provided a set of recommendations to address the issues.

Your question is absolutely valid. Why does the situation continue? It continues because the people who have a responsibility to take action on the recommendations have not done so. That is the key to the issue.

Maurice Corry: Do you share the former commissioner's view on compensation payments? Do you accept that, basically, we are talking about the exploitation of children?

Bruce Adamson: The position of the office is that there continues to be concern about that.

Maurice Corry: Do you agree with the point about the exploitation of children?

Bruce Adamson: Do you mean in terms of the restrictions?

Maurice Corry: I mean simply in the case of young footballers and their dreams.

Bruce Adamson: Yes.

Maurice Corry: The footballers are being taken advantage of. Is that correct?

10:45

Bruce Adamson: Yes. Real concerns have been raised through the work that the office has done. There needs to be public accountability through the mechanisms that exist—through the Parliament.

Maurice Corry: Thank you.

The Convener: Audit Scotland holds organisations to account, but it also follows up on its work. Do you not consider it to be useful to follow up on your report?

Bruce Adamson: We work very closely in holding the Government to account and reminding it of its obligations.

The Convener: However, you are not meeting the football authorities to ask what they are doing and whether there has been a change in behaviour. I am trying to think of any other circumstances in which you would not see it as your role, as the commissioner, to intervene where there was evidence that young people were routinely being held where they no longer wanted to be, were commodified and, while working there, were not given the statutory minimum wage.

Bruce Adamson: It is certainly our role to bring the issue to people's attention, which is what we did. The issue is before Parliament, which has the power to hold duty bearers to account.

The Convener: So you do not see it as your role to revisit things. If you produce really challenging recommendations but everyone says, "We're not listening to you," you will say, "Fair enough."

Bruce Adamson: We absolutely do revisit things. As the committee will have seen from our annual report, which was laid before Parliament, we continue to raise a number of issues. We focus on where we can best add value, particularly by raising issues that are not already before Parliament or issues on which Parliament needs additional support. They include the age of criminal responsibility, the physical punishment of

children, incorporation and the work on restraint and seclusion. We bring issues further forward, but when an issue is already before Parliament, the additional value that we can bring sometimes becomes more difficult to see.

When we assess how to focus our resources, which we do by having broad discussions with children and young people, analysing the communications on our advice line and working with civil society partners, we develop a plan to use our limited public resources effectively in order to best add value. The issue that we are taking about was already before Parliament, so the feeling was—

The Convener: With respect, the issue of restraint was also already before Parliament. Strong views were expressed, and the commissioner's office has done an important piece of work that shows the gap between policy and the reality of young people's lives. You have not yet provided an explanation of why, in relation to the clear example of exploitation that is in front of us and the dangers of such a culture leading to further abuse, you do not see it as your role to continue your work. You are saying, "The recommendations are there, so that's fine." You did not take that view on restraint.

I would argue strongly that there is a role for the commissioner in any area of policy in which you feel that there is a gap between what you or anyone else had recommended and what is happening in reality. The committee is wrestling with why, uniquely, the evidence of exploitation in this case is not being followed up.

Bruce Adamson: With regard to restraint and seclusion, there was a big evidence gap, which we used our legal powers to fill. An additional piece of work was required to use our legal powers to get the information and put it before Parliament.

The Convener: With respect, I think that the petitioners effectively provided a lot of evidence on restraint. The commissioner's role was to step things up a level in relation to the significance of the evidence and the work that had already been done. Your colleague who gave evidence earlier commented that the petitioners had gathered a lot of evidence, but your office used its authority to raise the issue.

We have the evidence on football, and the previous commissioner was able to raise the level of interest in the matter because of the authority of the office. I still do not understand why the commissioner's office does not feel that it has a role in not allowing folk to say, "That's what happens in football" and that someone can sign off a contract that means that a young person will be paid £1 a week.

Bruce Adamson: Additional information was needed for the investigation. We had to use our legal powers to compel local authorities to provide information on the guidance and incident reporting. Although the petitioner did incredible work in gathering evidence, our legal powers enabled us to provide something different and distinct, which takes us to the same place in terms of—

The Convener: So we are clear that we are not putting those aspects in competition with each other.

Bruce Adamson: Yes.

The Convener: Far from it, in fact, as we are asking a question about something that the petition has exposed about football over many years. In recent times, we have heard adults say that the context in which their abuse took place was the power relationships in football. You can correct me if I am wrong about this, but I do not know of an organisation in any other area that signs off contracts for a minimum wage of £1 or has the right to hold a young person who is under 16 to a contract against their will. Are there other organisations that do that?

Bruce Adamson: In relation to the complexity of those arrangements, there is none than I can think of. The way in which those arrangements work, which is incredibly concerning, is that they prevent the young person from playing football in other places.

The Convener: We are saying that we have a unique set of circumstances in front of us in plain sight, and that the person whose job is fundamentally to speak up for young people has a role in expressing grave concern about those circumstances and following it up with the authorities, which we are concerned seem to be sitting things out and feel that they do not need to be engaged.

Forgive me for taking up too much time. I invite David Torrance to ask his questions.

David Torrance: The SFA and the SPFL have been doing some work around the issues that are raised in the petition. Have you evaluated that work? What assurances can you give the committee that those organisations have the wellbeing of young children at heart, given that the previous time that you met them was in 2017, according to your evidence?

Bruce Adamson: They publish a lot of material about their progress. In relation to assurances, human rights is about law and about placing legal obligations on the state, which is why incorporation of the UNCRC is powerful. We have seen the work on the creation of the young players

welfare panel, and we note the things that it says publicly. However, it is important that—

David Torrance: May I interrupt? You say that you “note” what is said, but will you not go back to visit and ask what evidence there is that the measures are working?

Bruce Adamson: Again, because the matter is before the Parliament, we felt that others were already engaged with the process.

David Torrance: I think that saying that it is a matter for the Parliament is just fobbing people off.

Bruce Adamson: I am not saying that it is just a matter for the Parliament. However, I felt that we had invested time and energy in setting out the recommendations and that they were in the public domain and before Parliament. Our consultations with children and young people and all the evidence that is before us have showed that there are real gaps in other areas, so that is where we have focused our resource and attention.

David Torrance: Can you give any assurance that the measures that they have taken have the wellbeing of young people at their heart?

Bruce Adamson: Will you repeat the question, please?

David Torrance: Regarding the measures that the SFA and the SPFL have taken, can you give any assurance that they have young people’s wellbeing at their heart?

Bruce Adamson: That would be a matter for the SFA and the SPFL. I cannot speak to what they put at the heart of their measures. However, there is certainly a need for further regulation to ensure that a rights-based approach is taken. We need that across Scotland, but particularly with regard to the issue that we are discussing.

Gail Ross: Would you say that the matter in question is a breach of children’s human rights?

Bruce Adamson: Yes.

Gail Ross: Do you therefore see a role in the matter for either the EHRC or the SHRC?

Bruce Adamson: Yes. All human rights bodies need to be clear that they are working with Parliament and others to ensure that a rights-based approach is taken across the board. I cannot speak to their planning processes, but the key thing is to take a rights-based approach to all issues that come before Parliament, to make sure that we are clear in providing evidence about what needs to change, and then to hold those who are in power to account.

There are some differences in the specific powers that the various rights enforcement bodies have, but the challenge is always to figure out how

best to ensure that duty bearers meet those obligations. Often, that can best be done by holding them to account in public fora and working with Government to ensure that it understands its obligations. However, I do not necessarily see a clear legal challenge. I cannot see a particular piece of work that one of those bodies could do.

Gail Ross: The petition and all the surrounding evidence have been with us for years. Whose fault is it that it is still here? Where do we go from here? The committee has to get the various organisations to hold to account people who definitely need to be held to account. We are not doing it, you are not doing it, and the Scottish Human Rights Commission is not doing it, so who should be doing it?

Bruce Adamson: Ultimately, the Scottish Government has the responsibility for ensuring that children are protected and that their rights are met: it has a clear role in ensuring that obligations are met. Our role is to make sure that that is canvassed properly and that the Government is held to account. The key is to make sure that the duty bearers, or those who have power, change things.

The frustration that members are expressing about the petition and the issue still sitting with the Public Petitions Committee could be shared about other petitions that have been before the committee. There are other committees in Parliament whose remit would cut across the topic and which also have powers to compel evidence and hold the Government to account.

Diego Quiroz: The key issue is enforcement. If the law is breached, it is for the Government or relevant public bodies such as the police or Her Majesty's Inspectorate of Constabulary in Scotland to enforce that law. We do not have enforcement powers, and neither do the SHRC and other human rights bodies.

It is an enforcement issue. The law on paying the minimum wage has been breached: that law needs to be enforced. There is very little human rights expertise that we could add on that. We have highlighted the issue and that it is, of course, a human rights issue and there has been a breach, but that is as far as we can go.

The Convener: Can you think of another set of circumstances in which you would have nothing to say if a body was routinely exploiting young people or breaking the law on the minimum wage, and was routinely treating young people as commodities? Are you seriously saying that if it emerged that such established routine behaviour was happening somewhere else, you would have nothing to say about it?

Bruce Adamson: We have something to say, and we have said it.

The Convener: I say with respect that you have said things, but you have not sought to use your influence to change things.

Bruce Adamson: The office invested in setting out the rights framework and has brought clear attention to the issues.

Diego Quiroz: We have used our influence, but it has not worked, so it has become an issue of enforcement.

The Convener: Give me an example of another time when the commissioner has said something and it has not worked, so you just step back and accept that.

Diego Quiroz: We are happy to—

The Convener: That has not ever been the commissioner's role in the past, but it seems to be the commissioner's role on this issue. It is not that work has not been done, but that the person whose job it is to speak up for young people has chosen not to check whether those issues that were of such grave concern are still of grave concern, and has not brought to bear the weight of their office. Of course you do not have enforcement powers, but you have authority. I am genuinely struggling to understand why, in the circumstances, you are saying that this issue is not for your office.

Bruce Adamson: It is not that the issue is not for us. We are here engaging with the committee on the matter. It is in the public domain, where those in power can hold duty bearers to account.

11:00

The Convener: That does not appear to be working, does it?

Gail Ross: The previous commissioner said that he had

"no confidence whatsoever that self-regulation will bring about the changes that are required".—[*Official Report, Public Petitions Committee*, 9 February 2017; c 8.]

I must say that I agree: self-regulation has not worked. How should Scottish youth football be regulated?

Bruce Adamson: In human rights terms, it is important to have the strongest possible legal protection. There might, in some circumstances, be a legitimate place for self-regulation, but when we are talking about human rights issues, as we have been, given the concerns that have been raised throughout this work, there is a compelling case for statutory external regulation.

Self-regulation in other industries generally does not work, particularly when there is a profit motive and investors being balanced against the rights of children. In human rights terms, we would always

argue for just, effective and predictable comprehensive frameworks that set the law in place. Policy and practice need to follow on from that.

The Convener: Will you be writing to the Scottish Government to say that?

Bruce Adamson: We have always been very public about that.

The Convener: Will you now write to the Scottish Government to say that it is your view that Scottish football needs to be regulated?

Bruce Adamson: We can certainly reflect that. I do not think that there has ever been any doubt that we have a strong view that statutory regulation works much better for human rights—

The Convener: Given that you have not even told the SFA and the SPFL that—

Bruce Adamson: We have.

The Convener: At your one meeting, you did not check whether the SFA and the SPFL had done anything.

Bruce Adamson: That would be a matter for Parliament to legislate on.

The Convener: Will you write to, or even seek a meeting with, the Scottish Government to say that you believe that self-regulation is creating exploitation in football, and that it is your view, as the children's commissioner, that the Scottish Government should legislate to regulate Scottish football?

Bruce Adamson: I am happy to reflect that, as I have to the committee today. I am happy to undertake to put that in writing to ministers.

The Convener: Would you seek a meeting in that regard?

Bruce Adamson: I would, if that was seen to be useful. The challenge is this: what more would there be to say after having already been very clear? I could seek a response from ministers—as the committee could—on that point.

The Convener: The previous commissioner expressed strong views. People's sense that the commission is now stepping back from that is perhaps reducing the pressure. It would therefore be immensely helpful if you would make a commitment to seek to have a conversation with the Government about why regulation matters so much.

Bruce Adamson: I take that point, convener, and I am happy to commit to doing that. The key thing that we always do in the office is to seek to use our resources effectively to ensure children's rights. Again, I refer you to the annual report for the different ways in which we do that. However, I

can certainly commit to conveying that and the broader points in a letter to the Government, and to seeking a response from the Government. I appreciate that the committee will probably also do that to ensure that the matter is all on the public record and that accountability is upheld.

The Convener: It would be useful for the committee to have sight of that letter. I underline again to you that the fact that football authorities continue to make the case for the current situation suggests that some kind of pressure needs to be brought to bear.

I am conscious that you have been with us for a long time this morning. I thank you and your colleagues for your attendance and your close consideration of the questions relating to an earlier petition and this one. I look forward to further dialogue or correspondence on how you will take the matter forward.

With regard to what we have heard today, we are in the process of producing a report. We want to speak to the football authorities. It is helpful to know that the commissioner will write to the Scottish Government to outline his views. Is there anything else that we can do at this point?

Brian Whittle: I want to highlight the fact that many football coaches across the country do a great job and that we support the work that they do. The concern that we are addressing is that the current legislation is open to abuse by unscrupulous people. I can say quite categorically that football is fairly unique in that, if unscrupulous people decide to exploit children, they can do so.

We know that the petition has not moved on significantly—or has it? Actually, we do not know that. I will say that the ultimate issue here is statutory regulation. In my view, statutory regulation and sport have never gone well together. I suggest that we take the evidence away and consider it. The petition has been with us for longer than any other petition, and it needs to be moved on. I am adamant that we should not let the issue go. At the moment, it seems that nobody else is following up on it. However, we must find a way of getting the powers that be—the SFA, the SPFL or the Government—to ensure that the considerable loophole in children's rights is closed.

The Convener: My great fear is that not acting emboldens those who want to continue to behave as they have been. Everybody would prefer self-regulation, but self-regulation cannot function if nobody ever checks what that means or whether there has been any change in behaviour.

I hear what Brian Whittle has said. There is a lot for us to reflect on. We have an upcoming meeting with the football authorities: that will provide us with more context for a report.

I thank our witnesses for attending today. We will have a brief suspension.

11:07

Meeting suspended.

11:12

On resuming—

Salmon Farms (Closed Containment) (PE1715)

The Convener: The final continued petition for consideration today is PE1715, on closed containment for salmon farms in Scotland. The petition was lodged by Mark Carter, on behalf of Marine Concern, and seeks action to ensure that the salmon farming industry in Scotland uses only a closed containment method of farming, with full water filtering.

Since the petition was last considered, in February 2019, the committee has received submissions from Fisheries Management Scotland, Salmon & Trout Conservation Scotland, the Scottish Salmon Producers Organisation and the Scottish Government. The submissions are summarised in the clerk's note, which explains that there is currently no evidence of the commercial viability of wholly closed containment production methods.

Do members have any comments or suggestions for action?

Gail Ross: I was on the Rural Economy and Connectivity Committee when it dealt with the previous petition on this subject, which led us to conduct a thorough enquiry and produce quite a big report. I was quite interested to read the part of the clerk's note that deals with progress since that report was published. I think that there is scope for us to write to the cabinet secretary to ask about the points that have been raised about things that were promised not having been actioned or followed up. I would like to find out where we are now in terms of the recommendations in the report, because there were a lot of them.

The Rural Economy and Connectivity Committee addressed the closed containment issue and took a lot of evidence about the relevant environmental issues. It seems that we are not quite there yet with regard to setting up the cages on land, and there might well be scope for us to find out more about the state of research and development in that regard.

11:15

The Convener: As far as what added value the Public Petitions Committee can provide is

concerned, I assume that the Rural Economy and Connectivity Committee, which produced a report on the issue, will ask the Scottish Government to follow it up—

Gail Ross: I would hope so.

The Convener: I assume, too, that it will continue to look at the effectiveness of the solution that is proposed.

Gail Ross: Yes.

The Convener: Therefore, perhaps the best option would be to refer the petition to the Rural Economy and Connectivity Committee, given that we know that it has already done a lot of work in this area and that we are interested in the extent to which its recommendations have been followed up. We can also say that we think that further research might need to be carried out, if that is necessary. That would prevent duplication of effort by two parliamentary committees.

Gail Ross: I am unfamiliar with the referral process. If we were to refer the petition to the Rural Economy and Connectivity Committee, would we get back from it a report on where things stood or would the petition simply sit with it?

The Convener: The Rural Economy and Connectivity Committee would take ownership of the petition and of the issues that are highlighted in it. There is a conversation to be had about how effective that part of the process is, but I think that it is essential that the Public Petitions Committee refers petitions on to other committees when that is relevant. Such a referral is seen as pretty authoritative—it places on the relevant committee an obligation to reflect on the petition that is referred to it.

I am reassured by the fact that, as Gail Ross said, the Rural Economy and Connectivity Committee has already done a great deal of work in this area and has taken the issue seriously, so it will not disappear off its agenda.

Does the committee agree that we will refer the petition to the Rural Economy and Connectivity Committee under rule 15.6.2 of the standing orders, and that we thank the petitioner for bringing the matter to our attention?

Members indicated agreement.

New Petitions

5G Technology (Roll-out) (PE1753)

11:16

The Convener: The next agenda item is consideration of new petitions, the first of which is PE1753, by William Mercer, on a moratorium on the roll-out of 5G technology. The petition calls on the Scottish Parliament to urge the Scottish Government to support the recommendation for a moratorium on the roll-out of the fifth generation of telecommunications technology until potential hazards for human health and the environment have been independently reviewed.

Our paper on the petition explains that 5G mobile networks have launched in some cities in the United Kingdom, including Edinburgh and Glasgow, and that 5G technology is also being trialled in the Orkney Islands. It also makes reference to the Scottish Government's "5G and public health: position statement", published in August this year, which sets out the Scottish Government's current advice on 5G in relation to public health. The position statement concludes by stating:

"On the basis of sustained evidence-based research from around the world, ICNIRP",

which is the International Commission on Non-ionizing Radiation Protection,

"concludes that exposure to EMF"—

electromagnetic fields—

"below the recommended threshold is unlikely to be associated with adverse health effects in either adults or children. This view is fully supported by PHE",

which is Public Health England.

"However PHE continues to monitor the full breadth of health-related evidence applicable to radio waves, including in relation to base stations, and is committed to updating its advice as required. The advice provided by PHE is fully endorsed by the Chief Medical Officer for Scotland."

Do members have any comments or suggestions for action?

Maurice Corry: I think that we should write to stakeholders and the Scottish Government to gather more information.

The Convener: If we were to write to the Scottish Government, what would it tell us, other than that the position that I have just read out is its position at the moment? I am working on the assumption that the Scottish Government will be involved in an on-going conversation with stakeholders. I am mindful of the issue of duplicating work. I quoted the Scottish Government's conclusion. The point that I am

putting to you is that we know what the position of the identified stakeholders is.

Maurice Corry: Yes, but it is an on-going issue, so I think that we should get an update on where the Government is.

Brian Whittle: In a written answer, the Minister for Energy, Connectivity and the Islands, Paul Wheelhouse, stated:

"Legislative and regulatory powers regarding telecommunications are currently reserved to the UK Government".—[*Written Answers*, 8 May 2019; S5W-22710.]

My response to that is that the issue that the petition raises is a public health issue, not a telecommunications issue, so a certain amount of the responsibility for dealing with it lies with the Scottish Parliament. I do not know whether that changes what action we might take; I just wanted to highlight the fact that it is a public health issue.

That said, a significant amount of evidence has been gathered on the dangers of exposure to electromagnetic fields—

The Convener: To be clear, the petition would not have been admissible if it had not focused on public health issues. Even if we were closing the petition, it would be perfectly fair to write to the Scottish Government to say that we have received the petition, we recognise the on-going concerns indicated in the Government's statement and we acknowledge that the issues raised in the petition are within the Scottish Government's remit.

We understand that, as the petition has highlighted, there can be issues with any new technology. The petitioner seeks reassurance that the technology is being monitored, and the statement by the Government indicates that it is doing so, based on evidence. However, the petitioner could revisit the matter at a later stage if they felt that that commitment was not being followed through.

My view is that the statement shows that the Government has recognised and tested concerns about the technology and that although it believes that there is no risk from it, it will continue to monitor the full breadth of health-related evidence. The Scottish Government is therefore not closing down the discussion through its statement. The question is whether we are satisfied with the statement, which has not been lying in the stocks for long but was made in August 2019.

Maurice Corry: I understand what you are saying, but the community is conveying concern to me about 5G, so I am not comfortable about closing the petition on the basis that you have outlined. I think that we should wait, because technology moves extremely fast.

The Convener: The Government states that it understands that and is continuing to monitor the issue, but the Public Petitions Committee keeping the petition open will not improve that monitoring. However, we could write to the Government and underline that the petitioner has sought reassurance that the monitoring is going on, which would not preclude us from closing the petition. The Government report took a lot of work to produce and came out only in August, so it reflects current work. What we will get back from the Government will be exactly what it has already said.

If there are still concerns in a year's time and it seems like nobody is bothering to look at the issue, the petitioner could come back to us on it. If that petition was admissible, we would obviously look at the issue again.

Maurice Corry: So we will write to the petitioner in those terms.

The Convener: We can write to the petitioner saying that we have written to the Scottish Government to highlight the monitoring issue and that it is the petitioner's right to produce another petition in a year's time, but that we recognise how up to date the Government's statement is and that any work that we did at this stage would just duplicate that.

Maurice Corry: I will go with that.

Brian Whittle: I struggle to see where we could go otherwise with the petition.

The Convener: In our letter to the Government, we could also say that although certain issues are reserved, the issue of public health has made the petition admissible.

We will therefore close the petition under rule 15.7 of the standing orders and will write to the petitioner in the terms that we have highlighted, emphasising that we acknowledge the issues and that they are being monitored, and that there is the opportunity for the petitioner to bring a similar petition back in a year's time. Is that agreed?

Members indicated agreement.

Constitutional Change (Referendum) (PE1754)

The Convener: The next new petition for consideration is PE1754, lodged by Mark Openshaw, which calls on the Scottish Parliament to urge the Scottish Government to ensure that any referendum advocating constitutional change should have at least a two-thirds majority for it to succeed. Through its consideration of the Referendums (Scotland) Bill, the Finance and Constitution Committee considered the action called for in the petition and its stage 1 report on

the bill was published last week. The report concludes that, based on the evidence that it has heard, the committee does not support the use of thresholds other than a simple majority. Do members have any comments or suggestions for action?

Brian Whittle: I have huge sympathy for the petition, given that any significant change to the constitution of a business would require approval by 75 per cent of its shareholders. However, given the fact that the Finance and Constitution Committee has already considered the matter and not acceded to the petitioner's request, the likelihood that we could get such a change voted through is as close to nil as we could possibly get. As much as I have great sympathy for the petitioner, I cannot see any way forward other than to close the petition.

Maurice Corry: I go along with that. Reluctantly, I agree with Brian Whittle's points and I think that we should follow his suggestion. The Finance and Constitution Committee has obviously considered what the petition calls for and its report reflects cross-party views. I am prepared to go along with that committee's view.

Gail Ross: I agree.

The Convener: As Brian Whittle has said, there is an issue about supermajorities. There is a feeling that referendums more generally divide people. When decisions are made on the basis of 50 per cent plus one, how do we build in consent?

There is an interesting debate about that. The Citizens Assembly of Scotland might have looked at the extent to which referendums can be used at all to resolve complicated issues. However, given that the Parliament has recently looked at the issue and come to a view, I do not think that, at this point, the matter is something that the Public Petitions Committee could pursue. That said, we are aware that there is a conversation across—and far beyond—Scotland about how big decisions are managed through referendums. I am slightly going off at a tangent, but the issue is about in what set of circumstances referendums should be contemplated. As a country, we have not routinely had referendums, but other parts of the world use them more often.

Clearly, there is an issue, but I think that the consensus is that the Finance and Constitution Committee has looked at the matter recently and the action called for in the petition has not been agreed to. In the light of that, do we agree to close the petition? Of course, it is the right of the petitioner to bring back this petition, or a petition on some other aspect of this issue, after a year.

Members indicated agreement.

The Convener: We thank the petitioner. We hope that they would acknowledge that the issue is one that has been tested in the parliamentary process elsewhere.

Single-use Plastics (PE1755)

The Convener: The final new petition for consideration is PE1755, on banning all single-use plastics across Scotland, which was lodged by Stephen Henry.

Our briefing on the petition explains that in 2018, the Scottish Government appointed an expert panel on environmental charging and other measures to provide advice to ministers on measures that may be adopted to help us move towards a circular economy. It focuses on single-use items and was initially tasked with looking at disposable cups.

The panel's initial report in July 2019 recommended a mandatory charge for single-use disposable beverage cups in combination with ambitious targets for reducing their consumption and concerted action at national and local level to tackle Scotland's throwaway culture, including social marketing measures to raise awareness.

The briefing also highlights that the Environment, Climate Change and Land Reform Committee is considering PE1636, which calls on the Scottish Government to introduce legislation requiring that all single-use drinks cups be 100 per cent biodegradable, and that it will take into account the report of the expert panel on environmental charging and other measures.

I understand that when it considered PE1636 last month, the ECCLR Committee agreed to keep it open and to use the petitioner's asks to inform its scrutiny of the proposed circular economy bill, which is intended to encourage the reuse of products and reduce waste.

I am encouraged that another committee has looked at that petition ahead of our consideration of this one. That is an interesting and useful step in ensuring that petitions are fully considered—and not just by this committee. Do members have any comments or suggestions for action?

Brian Whittle: Of all the petitions, this is the one of biggest concern, as is reflected in the amount of parliamentary time that we spend discussing the environment and how we progress climate change issues. I am really happy to see PE1755. As you have alluded to, the ECCLR Committee is doing a significant amount of work on the issue and has looked at petition PE1636. The work sits predominantly with that committee, and I think that we should refer the petition to it.

The Convener: Do we agree to refer PE1775 to the ECCLR Committee under rule 15.6.2 of the

standing orders? In doing so, we should express our thanks to the committee for being proactive on the issue and for its reassurances that it will keep in mind the issues that are highlighted in the petition as it scrutinises the relevant legislation.

Members indicated agreement.

The Convener: I thank the petitioner. We will see the influence of the petition in the ECCLR Committee's work. I thank everyone for their attendance.

Meeting closed at 11:30.

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

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba