



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# **Citizen Participation and Public Petitions Committee**

**Wednesday 2 February 2022**

**Session 6**



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Pàrlamaid na h-Alba

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**Wednesday 2 February 2022**

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**CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE**  
**2<sup>nd</sup> Meeting 2022, Session 6**

**CONVENER**

\*Jackson Carlaw (Eastwood) (Con)

**DEPUTY CONVENER**

\*David Torrance (Kirkcaldy) (SNP)

**COMMITTEE MEMBERS**

\*Ruth Maguire (Cunninghame South) (SNP)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Paul Sweeney (Glasgow) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP)

Jackie Baillie (Dumbarton) (Lab)

Rhoda Grant (Highlands and Islands) (Lab)

Liam McArthur (Orkney Islands) (LD)

Carol Mochan (South Scotland) (Lab)

Martin Whitfield (South Scotland) (Lab)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Citizen Participation and Public Petitions Committee

*Wednesday 2 February 2022*

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

### Decision on Taking Business in Private

**The Convener (Jackson Carlaw):** Good morning. I am delighted to welcome everyone to the second meeting in 2022 of the Citizen Participation and Public Petitions Committee.

Agenda item 1 is a decision on taking business in private. Do we agree to take item 4 in private?

**Members** *indicated agreement.*

## Continued Petitions

### Air Traffic Management Strategy Project (PE1804)

10:00

**The Convener:** We move on to consideration of continued petitions. The update that I have to give on one or two of the petitions is quite lengthy, so I apologise in advance for giving uninterrupted speeches—I do not often make those in the chamber.

Our first continued petition is PE1804, which was lodged by Alasdair MacEachen, John Doig and Peter Henderson on behalf of Benbecula Community Council. The petition calls on the Scottish Parliament to urge the Scottish Government to halt Highlands and Islands Airports Ltd's air traffic management strategy project and to conduct an independent assessment of the decisions and decision-making process of the project.

I am delighted to welcome Liam McArthur, who joins us online this morning, and Rhoda Grant, who is back with us in the committee room. Both are with us to speak to the petition. Before I come to them, I will offer a little more background.

The Scottish Government's latest submission provides an update following the assurance of action plan that was conducted in the week commencing 25 October. The plan was set in the context of HIAL's announcement that a framework for discussion had been agreed with Prospect, the trade union, to establish a new way forward for the implementation of the ATMS programme. It noted that programme delivery activities were largely paused to enable further delivery options to be appraised.

The submission confirms that the digital assurance office, the portfolio, programme and project assurance team and HIAL would continue to liaise to ensure that appropriate assurance arrangements are planned in as decisions are taken on the programme's direction.

In its most recent submission, HIAL explains that, as a result of those developments, all industrial action was suspended while talks continued. In addition, new ATMS working groups were established with 27 air traffic colleagues from across several airports to help detail the benefits and risks of a potential way forward. The first of those groups met on 6 December.

At the end of January, HIAL announced that the HIAL board had agreed

“the future strategic direction for the ATMS programme. This will comprise a centralised surveillance operation for

Sumburgh, Kirkwall, Stornoway, Inverness and Dundee airports, based at HIAL's existing approach radar facility on the Inverness Airport Site. Air traffic tower services will continue to be provided locally at each of these airports."

A late submission from one of the petitioners, commenting on the detail of that announcement, has been circulated to members. In summary, the petitioner raises concerns about the timescales for the new developments; the £9 million that has been spent so far; the implementation of surveillance radar; the timeline for Inverness to be granted controlled airspace; whether HIAL intends to introduce controlled airspace at Dundee, Stornoway, Kirkwall and Wick and, if so, when; and moving Benbecula and Wick from air traffic control to aerodrome flight information service. He is also concerned about what will happen to New Century house, the building that was bought to house the combined surveillance centre and remote tower centre.

The petitioner asks the committee to correspond directly with the Civil Aviation Authority regarding the issues raised and would welcome the opportunity to discuss his concerns with the committee in person. I understand that we heard from the petitioner two years ago.

Like others, I got quite excited when I saw "Reporting Scotland" feature announcements in relation to the petition and thought that maybe we were seeing progress of some kind. However, the petitioners are underwhelmed, to say the least.

Before the committee considers the petition, ask Liam McArthur and Rhoda Grant whether there is anything that they would like to update us on, although we do not want to hear the original submissions all over again. Mr McArthur, I will come to you first. Is there anything that you would like to update us on?

**Liam McArthur (Orkney Islands) (LD):** I will try to be as brief as possible, convener.

The petitioner has set out very well some of the remaining issues. For example, it is not at all clear where the idea of radar surveillance has come from. It certainly begs some questions about the £3.5 million that was spent on New Century house, which now seems to be a rather expensive white elephant in relation to ATMS. That speaks to the concerns that both Rhoda Grant and I, and, more importantly, the petitioners raised about the incremental costs that have been incurred through the process on an objective that was seen as the only show in town but which has miraculously now been temporarily dumped. There is an on-going concern that HIAL may simply dust down the remote tower proposals four or five years down the line and seek to reintroduce them.

The other point that I stress is about the extent to which HIAL is relying on co-operative

surveillance. There have been some suggestions from HIAL that that was up and ready to go, but that has been refuted by the CAA. It would be interesting to hear HIAL's response to that challenge, because, fundamentally, if the CAA is not convinced, it will not get off the ground.

There are many questions that remain to be answered. The immediate risk to jobs on the islands and at the other airports is to be lifted, but there is some deep anxiety about the medium to longer term. There is also anxiety about HIAL's handling of a project that seems to have been calamitous and which looks set to rack up more and more costs at the public's expense.

If the committee were minded to hear directly from the petitioners and had time available in which to do so, that would be very valuable, in that more detail could be laid out on some of the issues that the committee could usefully continue to keep under review.

**The Convener:** Thank you very much, Mr McArthur.

Has the immediate lifting of threats to jobs maybe underpinned Prospect's welcome? Have you had any contact with Prospect?

**Liam McArthur:** I think that that must be the motivation. We are at an impasse where, in a sense, HIAL was suggesting that installing remote towers was the only way of achieving the modernisation that everybody accepts is necessary for future air traffic services in the region. Having reached an agreement that lifts that immediate threat to jobs, perhaps Prospect feels that things have been moved on. However, there is certainly an anxiety among staff at the local level that HIAL is buying the time that it was always going to need to achieve the remote towers.

I would be interested to know whether Prospect believes that that remains the case, but a number of its members, including staff in Orkney and, I understand, at other airports, remain anxious about the longer-term intentions of HIAL management.

**Rhoda Grant (Highlands and Islands) (Lab):** I agree with everything that Liam McArthur has said. The news that there has been a pause is welcome, because that is what Prospect was asking for and, indeed, what the staff and communities were asking for—they want time to look at the alternative solutions.

Nobody is arguing that we do not need to improve safety; the argument was that HIAL's proposals did not provide additional safety but were about centralisation. They would cause huge economic damage without providing the safety that people want.

I would be grateful if the committee would look at a number of things. The proposed discussions about Benbecula and Wick were overlooked because of the enormity of the proposals, which impacted all the airports. There is concern that the downgrading of Benbecula and Wick will go ahead. Those airports need safe surveillance and locally based air traffic control. Both Benbecula and Wick are looking at becoming satellite launch sites, so they need safe airspace.

Benbecula is also host to QinetiQ's Hebrides range, which means that there is often a huge amount of air activity when tests are taking place. The Hebrides range also provides a potential solution, in that it has radar. HIAL could work with the range to provide that in Benbecula. That would be a very affordable course of action that would not cause huge disruption.

One of the issues in all of this was the recruitment of air traffic control staff. The air traffic control staff in Benbecula tend to be young, so that airport has staff into the future. They are local people—they are not going to move anywhere. They will be lost to HIAL if it ends air traffic control at Benbecula.

There is also talk of a new island's impact assessment. Therefore, any downgrading of Benbecula should surely wait until that impact assessment has been done. That would be within the spirit of the law.

With regard to Wick, people will be aware of the closing of Dounreay and the need for an economic focus on the area. A lot of work is going on with renewables and with the maintenance of devices, but the area needs good air traffic links to other parts of the United Kingdom to be able to attract jobs. It is very important that it has a safe airspace. Indeed, we are trying to encourage more traffic there.

I will not repeat what the convener said about the CAA's comments, but it would be well worth the committee speaking to the CAA to find out what is happening, including about Wick perhaps being managed from Orkney. There was some discussion about that, and the CAA was not keen.

HIAL used to be very good at staff recruitment. It used to recruit from local communities. It would train people up and those people stayed. HIAL had its biggest recruitment issue in Inverness, where people tended to be more mobile. The committee should make HIAL look at that again and ensure that it starts recruiting again, because that is one of its reasons for stepping back—it says that if it cannot recruit, it will continue with the position as it was.

I know that the petitioners were keen to see Digital Scotland's second report published. HIAL

has it so it would be useful if the committee would ask it to publish that report.

There is also the centralisation of radar surveillance at Inverness. That does not make sense given that we are to have air traffic control at the airports, so how that decision was reached could be scrutinised. I know that there are concerns in Shetland about that, because the airport there has its own radar and there might be an impact if radar were centralised at Inverness.

I agree about the other issues that have been mentioned, such as the use of New Century house—I do not want to repeat everything.

**The Convener:** There are several increasingly focused and quite serious issues.

Would anybody else like to come in?

**David Torrance (Kirkcaldy) (SNP):** The petition has been on-going for quite a while—since last session—and we have not been updated by the petitioner for a long time. I am sure that, like me, committee members have a number of questions that they would like to ask the petitioner and HIAL management. I would like to bring in the petitioner and HIAL management to give evidence so that we can ask those questions.

**Alexander Stewart (Mid Scotland and Fife) (Con):** I very much concur with that. We have looked at the petition in depth, but from the information that we have received, it seems that there are more questions than answers.

It would be useful to get the petitioner in. There are also questions to be asked of the CAA about what it is doing with HIAL. It would be useful to have some correspondence with the CAA about the co-operative radar system that has been discussed in the papers. If we are to understand the situation, we require more information. Liam McArthur and Rhoda Grant have given us a lot of detail. That has been very useful, but there are still questions that we can ask of the petitioner and the CAA.

**The Convener:** Mr McArthur would like to come back in.

**Liam McArthur:** I will be extremely brief, convener. I very much welcome the comments from the deputy convener and Alexander Stewart.

As Rhoda Grant said, local recruitment is essential. HIAL almost made the process an exemplar when it last recruited locally. Since then, it has moved away from that model and sought to hire ready-made air traffic controllers. That was always a short-term fix, and it has left the company with some retention issues.

10:15

It would offer staff at various airports some reassurance if HIAL were to embark on a local recruitment drive. The approach has proven to be the best way of not just recruiting but retaining staff. If HIAL management gives evidence to the committee, that is a point that could be very usefully put to them.

**The Convener:** In your role as Deputy Presiding Officer, you promoted Mr Stewart; my deputy convener is David Torrance.

**Liam McArthur:** I was talking about the deputy convener and Alexander Stewart, rather than the deputy convener being Alexander Stewart.

**The Convener:** Thank goodness for that.

David Torrance was on the previous Public Petitions Committee, which heard from the petitioner. Given the recent developments, I am minded to fall in with the suggestion that we bring in HIAL. I think that we should write to the CAA in the first instance to get its views on the petitioner's latest concerns. I would quite like to get some information from Prospect about what underpins its welcome for the developments and where it now sits in the process. It may well be that that would lead us to invite Prospect to give evidence as well. Are there any other suggestions? Does what I have proposed seem reasonable?

**Paul Sweeney (Glasgow) (Lab):** I would be interested to hear from airspace operators—the main scheduled carrier, which is Loganair, and others who use the airspace, such as the training school at Dundee airport—to understand what their concerns might be. I do not think that we have heard anything from them.

**The Convener:** Thank you. I was going to ask the clerks whether that had been covered by any evidence. I ask the clerks to review that and see whether there is scope to follow up on Paul Sweeney's suggestion, as I think that that is another facet of the approach that has to be understood.

I do not think that there is anything for us to write to the Minister for Transport about at this stage. Are members content to take evidence as proposed in the first instance?

**Members indicated agreement.**

**The Convener:** Thank you. I hope that that will take us forward a little bit and that we can make our own contribution to this long-standing issue.

## **Protect Scotland's Remaining Ancient, Native and Semi-native Woodlands and Woodland Floors (PE1812)**

**The Convener:** PE1812, which was lodged by Audrey Baird and Fiona Baker on behalf of Help Trees Help Us, calls on the Scottish Parliament to urge the Scottish Government to deliver world-leading legislation giving Scotland's remaining fragments of ancient, native and semi-native woodlands and woodland floors full legal protection. The petitioners initially hoped that that would be done before the 26th United Nations climate change conference of the parties—COP26—in Glasgow last November.

I am delighted to welcome Jackie Baillie. Before I come to Jackie, I will provide a little background. The committee previously considered the petition on 8 September, when we agreed to write to the Scottish Government to seek an update on its response to the deer working group. To date, no response has been received from the Scottish Government. However, the petitioners have made a further submission, in which they raise concerns that Scotland's ancient woodland, Atlantic rainforest, country parks, remote glens, areas of outstanding beauty and farmland are all now being overrun by invasive non-native ecosystem-engineer conifer species.

The submission explains that such species already cover around one sixth of the country and that, where conifers are not being deliberately planted, they are planting themselves. The petitioners understand that Scotland added around 10,500 hectares of new invasive conifer-dominated plantations last year and, by 2024, aims to plant a further 18,000 hectares each year for felling.

The submission explains that, at the first part of the United Nations COP15 biodiversity conference in China, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services stated that invasive species and destructive land use are two of the five biggest threats to the natural world.

The petitioners explain that the UK law on escaped non-native trees is set out in the Wildlife and Countryside Act 1981, which states:

"any person who plants, or otherwise causes to grow, any plant in the wild at a place outwith its native range is guilty of an offence."

The petitioners are concerned that no one appears to be upholding that law, with the forestry industry being exempt. The petitioners call for the act to change to reflect the growing scientific understanding of the impact of invasive ecosystem engineers, as well as the forestry industry's inability to manage the risks that are associated with planting invasive conifers across Scotland.



I express disappointment that we have not had a response from the Scottish Government. However, I am happy to invite Jackie Baillie, who is with us this morning, to update us with any comments that she may wish to contribute.

**Jackie Baillie (Dumbarton) (Lab):** Given your comprehensive introduction to the petition, convener, you have taken away most of my comments.

**The Convener:** I was worried that that might be the case.

**Jackie Baillie:** I am grateful to you and to the committee for the opportunity to speak to this petition from Audrey Baird and Fiona Baker, both of whom are my constituents. Members will know that I am not an expert in ancient or native woodland but, in learning about the petition, I am absolutely persuaded of the need to protect our woodlands, and I therefore hope that the committee will support its aims.

The petitioners believe that our ancient and native woodlands are being colonised. I have copies of pictures that show that. I do not know whether it is appropriate to circulate them to members, but a picture does what 1,000 words cannot do. It shows the invasion of non-native species in our countryside.

Scotland's ancient woodlands, its Atlantic rainforest and other land are being colonised by invasive non-native conifer species, which, as you said, already cover one sixth of the country. It is interesting to note that while New Zealand, which is remarkably similar to Scotland, is spending hundreds of millions of dollars to remove invasive conifers, we have the opposite situation in Scotland. As you rightly referenced, we planted 10,500 hectares in the past year and have an ambition to plant an additional 18,000 hectares each year in the next three years.

New Zealand is not alone. Irish authorities have issued contracts for the removal of self-seeded conifers in an attempt to protect their woodlands from being colonised in a similar way. As I understand it, conifers take anything from six to 40 years to mature. They produce copious amounts of seeds that can live in the soil for decades before they germinate. Once they take hold, they rapidly invade, outgrow and destroy native woodlands.

Another set of issues is the impact on local communities, which members may have experienced. Such plantations are often promoted by faceless investment companies, some of which are global actors, that buy up land in Scotland. In an article a few days ago, the *Daily Record* described how tax haven companies such as Gresham House are taking advantage of tree planting in Scotland.

Their investment opens access to tax breaks. There is no income tax, corporation tax or capital gains tax in relation to growing timber. In their brochures, the investment companies talk about forestry funds providing their high-net-worth clients with inheritance-tax-efficient structures. I know that I digress slightly, but the committee should be aware of the motivation of some of those companies. It is not about climate change or the environment; it is about tax-efficient funds. Some might even describe it as tax-avoidance funds for wealthy clients.

The companies outbid local communities for land, and farmers in those areas are often extremely concerned that productive land is lost. Community consultation is meaningless and road safety concerns about large haulage lorries going through small rural communities are swept aside. I know this, because there is currently a consultation affecting my area for a 200-acre afforestation scheme at Stuckenduff involving the one and only Gresham House.

Nature and life are all about balance. It would therefore be interesting to know how many commercial afforestation schemes there are, and how many are conifers and how many are native woodland. As the petition noted, we have only something like 1 per cent of our ancient woodland left. We need to protect the remaining fragments of that ancient woodland, semi-native woodland and woodland floor for future generations. That means providing full legal protection.

You were right to reference the Wildlife and Countryside Act 1981, which states:

"any person who plants, or otherwise causes to grow, any plant in the wild at a place outwith its native range is guilty of an offence."

The forest industry is exempt, but I would be curious to know how often that has been enforced in Scotland in the past 41 years and, indeed, why there are no controls on the forestry industry, because it has a direct impact on our ancient woodlands.

I will leave you with a surprising fact, which I confess to not being aware of before and which you referenced, convener. According to the United Nations COP15 in China, invasive species and destructive land use are two of the five biggest threats to the natural world. I certainly did not know that before. Surely, it is time for Scotland to update its legal framework to take account of that growing body of knowledge of the impact of invasive non-native species and act to protect what remains of our ancient native woodland.

**The Convener:** Do committee members wish to comment?

**David Torrance:** Like you, convener, I was disappointed that we did not get anything back

from the Scottish Government. Could we invite the Cabinet Secretary for Rural Affairs and Islands to give us evidence on the questions that have been raised? The evidence that has been put before us is concerning.

**Ruth Maguire (Cunninghame South) (SNP):** It is an important topic and I, too, would be interested to hear directly from the cabinet secretary. That would allow us to move things along a bit quicker than letter writing seems to have done in this instance. It would be helpful to hear from her.

**Alexander Stewart:** I, too, indicate my disappointment at not having a response from the Scottish Government. It is very much in our favour if we invite the cabinet secretary to comment on the evidence that we have received. It is useful to have the photographic evidence as well. Ms Baillie has taken an informed approach. It would be useful to get the cabinet secretary to answer some of the questions that she posed.

**Paul Sweeney:** The petition is incredibly important. During COP26, the RSPB did a fantastic showcase on Scotland's rainforests, which was an eye-opening educational experience. Not many people realise that rainforests exist in Scotland in the temperate climate. There is probably a need to mobilise a broader debate on the issue. We ought to consider taking evidence from a wider group of stakeholders to broaden the base of the evidence that we obtain. I am thinking of Forestry and Land Scotland and the RSPB as two suggestions.

It is an urgent concern, particularly with the invasive growth in ancient woodland and the displacement that is caused by conifer plantations, which I think were originally planted for the first world war. That was the origin of the Forestry Commission; it was about the need to rapidly grow timber for the war, but it has had severe long-term effects over the past century.

**The Convener:** I thank Jackie Baillie for her helpful and comprehensive suggestions. Our original thought was that we might write to the cabinet secretary again but, given the focus in Scotland on the environmental agenda and the importance of the issue, it seems to be the sort of issue that the committee was designed to pick up, make some running with and interrogate in some detail.

I welcome the suggestion that we have the cabinet secretary before us, and I am happy to concur with the other suggestions that Mr Sweeney made. The photographs that we have been given are helpful in illustrating what an invasion can look like. I am happy for the cabinet secretary to have sight of those before she comes

to give evidence, so that there is an understanding of the practical reality.

Were the petitioners responsible for those photographs, Ms Baillie?

**Jackie Baillie:** They were. My photographic skills are not as good as theirs.

**The Convener:** No comment. I thank them very much for that. I wonder whether we would like to have the petitioners involved, too. As a courtesy, it might be nice to have them.

10:30

**Jackie Baillie:** I think that they would certainly welcome that.

**The Convener:** Are members content with that approach?

**Members indicated agreement.**

**The Convener:** I thank members for their contributions.

### **Prescription and Limitation (PE1860)**

**The Convener:** PE1860, which was lodged by Jennifer Morrison Holdham, calls on the Scottish Parliament to urge the Scottish Government to amend the Prescription and Limitation (Scotland) Act 1973 to allow retrospective claims to be made.

The petition was last considered on 17 November. Members will recall that, in her previous submission, the Minister for Community Safety advised the committee that the Scottish Government does not hold data relating to the exercise of section 19 of the Prescription and Limitation (Scotland) Act 1973 and that the Scottish Courts and Tribunals Service cannot interrogate the information that it holds, as it is held in a court interlocutor. The committee therefore agreed to write to the minister to ask how the Scottish Government intended to address the data gap identified by the petition. I think that we were all quite surprised by that. The minister promised to write once again to the Scottish Courts and Tribunals Service to raise the issue with it.

The minister also notes that section 19A empowers the court to disapply the time limit and that this discretion is unfettered, stating:

“what matters is the circumstances in which the courts have exercised the discretion, not necessarily the number of times it has been exercised.”

I thought that the response that we received from the minister was the one that we might have hoped to receive the first time round. Are there any comments?

**David Torrance:** Could we write to the Minister for Community Safety to ask for an update on how she got on with the Scottish Courts and Tribunals Service?

**The Convener:** Indeed. I do not know when we can expect the minister will have written, but we will chase that up until we get an understanding of what has progressed.

### **Island Community Representation on Boards (PE1862)**

**The Convener:** PE1862, which was lodged by Rona MacKay, Angus Campbell and Naomi Bremner on behalf of the Uist economic task force, calls on the Scottish Parliament to urge the Scottish Government to introduce community representation on boards of public organisations that deliver lifeline services to island communities, in keeping with the Islands (Scotland) Act 2018.

I am delighted to welcome back Liam McArthur and to welcome Alasdair Allan, both online, to speak to the petition. Before I come to our guests, I will provide a little additional background.

We last considered the petition on 1 September 2021. At that meeting, the committee discussed an earlier submission by the Scottish Government, which explained that the requirements for the appointments to a public body board are set out in the public body's founding legislation. The committee highlighted that there was

“nothing in the Scottish Government's submission to suggest that it has any plans to amend founding legislation for public bodies on the basis that lifeline services to island communities require community representation on their boards”.—[*Official Report, Citizen Participation and Public Petitions Committee*, 1 September 2021; c 19.]

The committee therefore agreed to write to the Scottish Government to clarify whether it had any plans to amend founding legislation for such a purpose. As with one of the previous petitions, we have had no response as yet from the Scottish Government ahead of our consideration today. However, I am happy to bring in both of our parliamentary colleagues for further comment. I ask Alasdair Allan to comment first.

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** I begin by thanking Rona MacKay, Angus Campbell and Naomi Bremner for the work that they have done in my constituency on behalf of the Uist economic task force to bring the petition to the committee.

Island communities are all reliant on lifeline transport links. They are vital to every aspect of our lives. However, the organisations that are tasked with delivering those services have virtually no one with experience of living in the communities that they serve on their boards. The petitioners' submission rightly states that

community and place should be at the heart of good government.

Given that the principal mission of organisations such as David MacBrayne Ltd, Caledonian Maritime Assets Ltd and Highlands and Islands Airports Ltd is to serve island communities, it is not in the interests of good governance of the boards of those organisations to be as remote from their service users as they currently are. I say that as no criticism of existing board members, but I do not think that any of them probably faces the experience that I, fairly enough, face of hearing people's views about CalMac Ferries every time I go to buy a pint of milk.

Since the committee last considered the petition in early September, I led a members' business debate in the chamber on reserving seats for islanders on the board of CalMac. There was a large degree of cross-party consensus on the need for more representation of islanders. The then transport minister, Graeme Dey, signalled that the Scottish Government is open to changes, and in responding to a recent parliamentary question of mine the minister also stated that he had tasked the newly appointed chair of David MacBrayne to look at ways of getting an island-based presence on the boards.

Briefly, one other development that is relevant to a petition that you have just considered is that HIAL has recently confirmed that it will be taking a different approach to its ATMS plans on air traffic control jobs. The issue with HIAL also partly motivated the petition that we are presently discussing. The announcement comes after five years of bitter dispute with the affected communities and the air traffic controllers trade union. It is fair to speculate on whether the process would have been as long, acrimonious and protracted if more board members of that organisation had been based in island communities.

In closing, I will borrow a point that Rona MacKay from Uist made to me. Last year, Uist and Lewis both won titles of social enterprise places of the year. That is a testament to the large number of social enterprises on the islands, which each have unpaid boards of islanders. Islanders are not strangers to boards and nor, relevantly, is there any shortage of islanders who know about seafaring. There exists a large and healthy degree of involvement in public life in the islands. It would be in everyone's interests if that could be utilised on the boards of the organisations that deliver lifeline services to them.

I urge the committee to keep the petition open and to push for changes in the criteria for board appointments in the organisations that we have discussed to give much more prominence to the experience of living in an island community.

**The Convener:** Unfortunately, Mr McArthur has been called to another meeting, so we do not have his further contribution to hear. Do members of the committee want to comment?

**Ruth Maguire:** The update on the members' debate was interesting. Alasdair Allan indicated that the transport minister at the time was open to the suggestion, so I wonder if the best thing for us to do is to write to the cabinet secretary to ascertain the current position, and take things from there.

**The Convener:** Do members agree with that suggestion? We could reference the members' business debate to which Mr Allan drew attention. There is wide cross-party interest in the issues underpinning the petition. We will see what the cabinet secretary says in response. It may well be that that leads to an evidence session on the issue at a later date.

**Paul Sweeney:** Is it worth making the lead committee aware of the petition, in the sense that it might be worth an inquiry into the basis on which public appointments are made to the boards of CalMac and CMAL? I am approaching it less from a rural perspective and more from a shipbuilding perspective, but my understanding is that the boards are problematic, to say the least, in how they govern those agencies. There is very little public oversight of the characters who have been appointed to the boards. There is a potential for conflicts of interest and there is ignorance of many other aspects of how the organisations should be operating.

**The Convener:** I suggest that the clerks liaise with the clerks of that committee to see what understanding they have of the issue. Maybe that committee can come back to us and we can decide how its work might fit with anything that we are doing.

Are we agreed on that approach?

**Members indicated agreement.**

**The Convener:** Thank you all, and thank you, Mr Allan.

### **Onshore Wind Farms (Planning Decisions) (PE1864)**

**The Convener:** PE1864, on increasing the ability of communities to influence planning decisions for onshore wind farms, was lodged by Aileen Jackson on behalf of Scotland Against Spin. The petition calls on the Scottish Parliament to urge the Scottish Government to increase the ability of communities to influence planning decisions for onshore wind farms by adopting English planning legislation for the determination of onshore wind farm developments, empowering local authorities to ensure that local communities

are given sufficient professional help to engage in the planning process, and appointing an independent advocate to ensure that local participants are not bullied and intimidated during public inquiries.

The petition was last considered by us on 1 September 2021. The committee agreed to write to a range of stakeholders. I am pleased to say that responses have now been received from Scottish Renewables, Planning Aid Scotland, the Royal Town Planning Institute and the petitioners. We also received a late submission from Finlay Carson MSP in support of the petition.

The submissions that we received were very detailed and comprehensive. I thank those who have taken the time to research the information, forward it to us and to submit their views on the petition. All of the submissions have been shared with members in the papers that they received in advance of the meeting, and for people following our proceedings, the submissions are all publicly available on the petition's website.

Common themes across the submissions include: the role of local planning authorities as decision makers; ensuring that communities have access to professional help in navigating the planning process; ensuring that communities have early notification of section 36 applications; capacity issues for local authorities in meeting future net zero targets; potential learning from elsewhere in the UK, for example, local authorities applying English planning law; the use of inquiries and how communities can best contribute to them; and mechanisms to enable any issues with a developer's conduct to be formally raised. Do members have any comments or suggestions for action?

**David Torrance:** The submissions are very detailed, but there are still a lot of questions that need to be answered. Could we invite the Cabinet Secretary for Net Zero, Energy and Transport to provide evidence to the committee?

**Alexander Stewart:** I agree that the information that we received from the organisations and individuals is very comprehensive. Once again, if the cabinet secretary comes to the committee it would give us the opportunity to put some of those questions to him and allow him to respond to the evidence.

**Ruth Maguire:** The issues that are being raised feel more like planning issues. Although the petition is specifically about wind farms, which relate to energy, the issues raised feel like they are more about planning than the environment. I would be interested to hear others' reflections on that.

**Paul Sweeney:** Further to that, given that the new national planning framework is currently being

developed, it might be an opportune moment to try to be clear about feeding those issues into the process. I cannot remember off the top of my head which minister is leading that effort, but it would perhaps be worthwhile engaging with them in light of the evidence being raised.

**The Convener:** There is a willingness for us to take evidence, but we want to be sure we are taking evidence from the right source. Are members happy to delegate to me the decision as to who that would be?

There is another group I am quite interested to hear from. There are repeated references to the powers that local authorities in England have in relation to wind farms. I wonder whether we could touch base with a representative organisation of local authorities in England to understand a little bit better the actual application of that process. I would like to know whether in practice that has worked in the way that is being suggested and whether there are any concerns or anxieties among English local authorities about the responsibility that has been devolved to them.

Are members content to proceed on that basis?

**Members indicated agreement.**

### **Surgical Mesh and Fixation Devices (PE1865)**

**The Convener:** PE1865, by Roseanna Clarkin, Lauren McDougall and Graham Robertson, calls on the Scottish Parliament to urge the Scottish Government to suspend the use of all surgical mesh and fixation devices. I apologise for the fairly long preamble. The petition has had something of an airing in the Parliament in connection with the bill on compensation for transvaginal mesh surgery that was recently passed. The petition calls on the Parliament to suspend the use of surgical mesh and fixation devices while a review of all surgical procedures that use polyester, polypropylene or titanium is carried out and guidelines for the surgical use of mesh are established.

10:45

The petition was last considered on 17 November 2021 and at that meeting the committee agreed to write to the Minister for Public Health, Women's Health and Sport and to the Shouldice hospital in Canada. Responses have been received from the minister, the Shouldice hospital, Sling the Mesh campaign and the petitioners.

I am delighted that Jackie Baillie is still with us this morning and I welcome Carol Mochan MSP, who joins us online; both members wish to speak to the petition. Before I bring in my colleagues, I

will provide a little bit more of the background, which I apologised for the length of a moment ago.

In 2019, the Scottish Health Technologies Group carried out a review into the use of mesh in primary inguinal hernia repair in men. The review concluded that, compared to non-mesh procedures, using mesh resulted in lower rates of recurrence, lower rates of serious adverse events, and similar or lower risk of chronic pain. The advice for NHS Scotland was, therefore, that surgical mesh should be used in elective repairs in inguinal hernia in adult males.

The SHTG review was subsequently expanded to include women, examining the outcome of mesh versus non-mesh surgery in a variety of groin or abdominal wall hernias. The Scottish Health Technologies Group concluded that current evidence supports the continued availability of surgical mesh for elective repair of primary ventral hernias, incisional hernias, and primary inguinal hernias in adults in Scotland. The group recommends, however, that consideration should be given to patient preference and that patients should also have access to alternative hernia treatment options such as non-mesh—suture and natural tissue—repair.

The chief medical officer has also undertaken a number of activities relevant to the petition, including: writing to the board chief executives and medical directors to draw their attention to the SHTG report's findings; asking health boards to consider the availability of non-mesh surgery within their health board, and how any skills gaps can be addressed; asking health boards to consider the development of local clinical groups and broader clinical networks for the management of complex cases; and asking medical directors to remind clinicians of their obligations under the principle of realistic medicine, of informed consent and of the importance of recording both the content and outcome of such discussions.

With regard to the issues raised about the quality and authenticity of certain materials being used, the minister states that the Scottish Government contacted the Medicines and Healthcare Regulatory Agency in 2018, which confirmed that there was no new evidence to prompt regulatory action and that the products in question remained acceptably safe when used as intended.

The committee also wrote to the Shouldice hospital in Canada, as the leading experts in natural tissue repair. In what I thought was a fascinating submission, Shouldice states that in its own practice, surgical mesh is not used unless absolutely necessary and that has led to it being used in less than 2 per cent of cases. The hospital specialises exclusively in abdominal wall hernia repair. It states that where the body's natural

tissue is strong enough to support the surgical repair, natural tissue repair should always be used and where underlying patient tissue is poor, surgical mesh may be necessary in some femoral and large incisional hernia repairs. All the hospital's surgeons are trained to do a natural tissue repair as their first choice; natural tissue repair should be the first choice for all primary inguinal hernias, most recurrent inguinal hernias, most femoral hernias, most epigastric and umbilical hernias, and small incisional hernias.

Shouldice also notes that since mesh was introduced in the 1980s, the recurrence rate for inguinal hernia repair—more than 85 per cent of most of its hernia repair—has not improved. There has been a staggering increase in post-operative complications not seen prior to mesh. Chronic and debilitating pain and other severe complications such as mesh shrinkage, mesh migration, and related nerve entrapment are widespread. There are no side effects of tissue repair if it is done correctly. Training for surgeons on the natural tissue technique ranges from three months for an experienced fellowship general surgeon to six to nine months for an inexperienced general surgeon.

The Sling the Mesh campaign shared the results of its recent survey of its 9,300 members with experience of vaginal, abdominal, pelvic, rectal, hernia mesh and mesh following mastectomy. It notes that one in four have considered taking their life, six in 10 suffer depression, one third have been forced to give up their work, one in four now need a stick to walk, and one in 14 now need a mobility scooter or wheelchair.

In their submissions, the petitioners welcome the information contained in the Shouldice hospital submission and ask for further information to be sought on the use of protacks, which are devices used to fix mesh to soft tissue. The petitioners believe that there is evidence to suggest that a considerable sum of money has been spent recently procuring hernia mesh and other fixation devices and they feel that that money could have been spent on investigating and teaching natural tissue repair. The petitioners also query why mesh is still being bought and why clinicians are not yet accurately and systematically recording the effects of such material on patients.

We have gathered quite a lot of evidence since we last considered the petition. I invite both Jackie Baillie and Carol Mochan to contribute ahead of comments from committee members.

**Jackie Baillie:** Many thanks to you, convener, and to the committee for allowing me to speak to the petition. Given your detailed knowledge and interest in the area, I feel as though I am pushing an open door.

I have been contacted by one of the petitioners, Roseanna Clarkin, and she shared with me the evidence from the Shouldice hospital in Canada. I know that the committee has seen that evidence.

In the past week, I have also been emailed by a number of men and women across Scotland who have experienced post-operative complications after the use of mesh. Their stories are heartbreaking. They are living in excruciating pain. Many of them have had to give up work. Their fears are somehow being dismissed as psychological and not physical. Some have had to go private because the national health service is refusing to help them. Some have been so low they have considered taking their own life. You will appreciate, convener, that those stories are remarkably similar to the stories that we heard from women who experienced difficulties as a consequence of transvaginal mesh. The evidence of problems with mesh appears to be increasing, not just in this country but in other countries around the world.

I am astonished that on 25 January, the Scottish Government signed a deal with mesh providers to provide more mesh for more mesh surgeries for the next 24 months at a cost of £3.5 million. Equally, I am not aware whether it is a matter of routine for alternative surgeries to be offered and I wonder whether that is something that the committee would consider exploring.

Given the experience of the transvaginal mesh campaigners, I ask the committee to ask for an independent review—not an internal review—and get the data to understand the scale of the problem that is starting to emerge here. The committee should also consider asking the Scottish Government for mesh removal and other mitigations for those affected.

**Carol Mochan (South Scotland) (Lab):** I am quite new to the subject matter and I want to put on record that I am interested in the way the matter has progressed. Similar to other members, I have been involved in the mesh debate with women in relation to transvaginal mesh. It is important that we use the evidence that we have from other areas.

I support the overall sentiment of the petition: it is a perfectly reasonable request that a review is held and that guidelines around the surgical use of mesh are established. The petitioners have brought evidence to the minister and the committee has gone over other evidence. It is incumbent on us to ensure that reasonable requests are respected; it seems reasonable for the Citizens Participation and Public Petitions Committee to take action and at least further scrutinise what can be done to support the petition.

Thank you very much for the opportunity to speak today. I hope to keep an eye on what is happening around mesh for those people.

**The Convener:** I am grateful for that. Do any members of the committee wish to comment?

**Alexander Stewart:** I am amazed at what has already been achieved through the campaigns in the past, but looking at the current situation, it would appear that lessons have not been learned. There is a real similarity between what happened to the women and what is now happening to the men. The Shouldice hospital report is eye-opening; it is important for us to have that information and to collate some of the issues that have been raised.

We need to seek more clarity on all of it. We should at least be writing to the chief medical officer in Scotland to ask what is happening with the process. Ms Baillie has some very strong views about what is taking place and the funding that has been provided. If we do not take some action, are we just saving up more problems for individuals in the future? I want us to write to the chief medical officer and also to ensure that the minister for public health comes back to the committee and gives us more updates on what is taking place.

I would have hoped that, following the whole debate and debacle with transvaginal mesh, we would have learned some lessons, but it would appear that we are repeating some of the failures and we are putting individuals through the trauma that some women experienced in the past. We need to get real clarity on all of that and we should continue the petition on those grounds.

**Paul Sweeney:** I support what Jackie Baillie said about the submission from Roseanna Clarkin. It was quite shocking to learn that the vendor, Covidien UK, was supplying Parietex mesh, which has been subject to Food and Drug Administration restrictions in the United States because it has been directly linked to postoperative complications and adverse effects in patients. Perversely, we are in a position in Scotland where we have fewer medical clinical protections for patients than in the United States. I am sure that if you asked the average person in the street which jurisdiction they think offers more protections to patients, they would say Scotland, when as a result of the Government's decision, that is not the case.

It is critical that we pursue the issue. The submission from the Shouldice hospital offers an insight into an alternative model that is quite compelling. In light of that remarkable evidence, it would be worth asking the health secretary to engage with it directly and perhaps look at the opportunity to set up a pilot project in Scotland with a particular hospital or surgical centre, to see

whether we can adopt those methods. We could use the pilot as a control against standard procedures and see whether it produces demonstrable effects that could improve patient care.

**Ruth Maguire:** I am thankful for the evidence that we have been given. It has certainly been eye-opening. I think that one person in pain and distress and not being believed is one too many. That said, it is important that we understand the scale. Based on what has happened previously and our experience of what happened to the women, I would like to invite the minister to come and give evidence. It is important to start that dialogue. It is almost too big to just write and ask for some information. We should have an evidence session in the first instance.

**The Convener:** We took evidence from the minister prior to your joining the committee, but there is every reason to suggest that we might wish to have the minister back.

**David Torrance:** I am like my colleagues in that I am very interested in the petition as somebody who has been there from the very start in relation to the mesh cases. It is important that we get to the bottom of the matter. Rather than write to the chief medical officer, could we ask him to give evidence? We could invite somebody from the hospital in Canada to give evidence to the committee, too, so that we could ask questions. Let us just push the petition on and make progress on it.

**The Convener:** The associated concern of hernia mesh was referred to from time to time during the progress of the committee's dealings with the mesh petition previously. There was an immediately united, informed body of women who drove the transvaginal mesh petition forward. The issue of hernia mesh was understood to be there but did not have the same profile.

What is depressing is that the pathway seems to be exactly the same: a lack of any subsequent follow-up to establish whether issues have arisen, a denial of the association of any issues with the mesh that has been fitted, and the calling into question of the motivations or understanding of those who are themselves feeling pain and that pain being dismissed as not real but imagined. Even during the debates on recent legislation, I was reluctant to conflate the two issues because I felt that we did not have the same body of evidence. As a consequence of our pursuit of this petition, the wider body of evidence is beginning to emerge. Therefore, I think that it is very much an issue that the committee should pursue further and that we should leave the petition open.

11:00

I would very much like to welcome the minister back to the committee. The minister should have the opportunity to properly consider the evidence that we have received from the Shouldice hospital. Taking evidence from representatives of the Shouldice hospital would be slightly problematic in terms of timing because they will not be working to the same clock as our committee—I imagine that they are all fast asleep at the moment—but we could think about that.

I would like to hear from the chief medical officer and the minister. I would certainly like to understand that evidence and flag up in advance the procurement of the particular mesh material because I do not understand why that has happened. All the issues look broadly similar. When we heard from the minister previously, the Government was working on informed consent procedures. That seemed fair enough, but we have been here before.

We can assume that there is now a broader body of men who have concerns. However, a number of men have contacted me to say that they have had perfectly successful mesh procedures and it has made a huge difference. I want to understand the volume and the relationship between those who feel that they have had successful mesh procedures and those who have had unsuccessful mesh procedures. In the case of transvaginal mesh, the balance was fundamentally on the side of those who had experienced serious health consequences. That may have to form the basis of any informed consent in the event that there is an argument for the mesh process proceeding.

Are we content to take and consider further evidence from those parties that have been suggested?

**Members** *indicated agreement.*

### **British Sign Language (National Qualification) (PE1867)**

**The Convener:** PE1867, which was lodged by Scott Macmillan, calls on the Scottish Parliament to urge the Scottish Government to encourage the Scottish Qualifications Authority to establish a national qualification in British Sign Language at Scottish credit and qualifications framework level 2.

I am delighted to say that our meeting is being streamed in BSL for those people watching and hopefully for our petitioners, who might now be watching the consideration of the petition.

The petition was last considered by the committee on 8 September 2021. At that meeting, the committee agreed to write to the SQA to

establish whether the qualification called for in the petition could be introduced, what would be required in introducing it and what, if any, obstacles there might be to doing so.

A response has been received from the SQA. It advises that the decision regarding

“what qualifications must be in place to provide students with the opportunity to learn BSL, or any other additional language, from primary 1 ... is not strictly in SQA’s gift.”

It advises the committee to seek advice from those in the Scottish Government with responsibility for the language learning in Scotland: a 1+2 approach policy. The submission explains that the particular qualification types that are deemed to be part of the national qualifications suite include national courses and national units at each level from SCQF level 1 up to SCQF level 7. Furthermore, the different levels in the national qualifications help SQA to recognise the attainment of learners of all abilities and ensure that there are appropriate progression routes. SQA advises that it would not normally seek to develop a course in a new subject at just one level.

To ensure a fair appraisal of new requests, SQA advises that it has developed criteria that need to be met before considering developing national courses in a new language. Those are evidence of demand for a course; sufficient qualified and registered teachers; strategic support from a range of partners within Scottish education; and the availability of specific grant funding from the Scottish Government.

The SQA advises that previously BSL has failed to meet the first and second criteria, which were the focus of considerable debate after the British Sign Language (Scotland) Act 2015 was passed and while the BSL national plan for 2017 to 2023 was being developed. Those were the evidence for demand for a course and sufficient qualified and registered teachers. SQA advises that it has developed awards in BSL rather than national courses.

I think that we know quite a bit more than we did before. Do members have any comments or suggestions for action?

**Paul Sweeney:** The point about the capacity to deliver the course is interesting, and I think that the SQA’s response is fair. I am not aware of the number of people in Scotland who are qualified in BSL, but it might be worth trying to establish a route to a solution with Scottish Government colleagues.

It might also be worth trying to engage with the further education sector, perhaps including certain colleges that might be able to offer BSL as a qualification. On that basis, if we are able to establish some understanding about the logistics of delivery, it might enable the SQA to work



towards developing a qualification that could be offered.

We might not have a BSL teacher in every school in Scotland, but the course might be offered at a school or a college within a local authority area and that would allow interested students to apply to do the course. I am sure that there is a way of working through the issue that has been identified, and it might be worth looking at how we can bring stakeholders together to see whether we can hammer that out.

**The Convener:** Thank you, Mr Sweeney. I think that you might have the same sense that I have that there is a lack of ownership of the actual direction of the pathway to a solution. That seems to be the point.

**Alexander Stewart:** I concur with that, convener. There is a demand and capacity issue, and possibly a lack of qualified teachers and funding. All of those would need to be in place before we can see whether there is an opportunity. Mr Sweeney makes a very good point about taking collective responsibility to provide it within a centre, a school or further education. That is part of the issue, but at the same time, if there is not the demand and there is not the resource, it is difficult to understand what the situation is. Clarifying that would be useful.

**Ruth Maguire:** I am interested to know how the SQA assesses demand and whether it consulted with the deaf community on that. Perhaps we should write to stakeholders such as Deaf Action, the National Deaf Children's Society Scotland and the Scottish Children's Services Coalition.

**David Torrance:** I was just going to agree with my colleague, Ruth Maguire.

**The Convener:** She stole your thunder.

**David Torrance:** She stole my thunder there.

**The Convener:** I would like to write to those organisations and the Scottish Government to ascertain what qualifications must be in place, prefacing it by saying that the evidence that the committee has received so far seems to point to a lack of clarity about where the leadership for a resolution of this issue might lie. I would be interested in their comments on that because, from the evidence that we have received, the situation is not clear and therefore we are amassing evidence without it being clear what the trigger would be to give effect to progress. We will keep the petition open and proceed on that basis.

### **Wind Farms (Community Shared Ownership) (PE1885)**

**The Convener:** PE1885, which was lodged by Karen Murphy, calls on the Scottish Government

to make community shared ownership a mandatory requirement to be offered as part of all planning proposals for wind farm development.

The committee wrote to the Scottish Government asking whether the Scottish Government could use existing planning powers to provide incentives for developers to offer community shared ownership. The Scottish Government's response highlights good-practice guidance, which indicates that planning authorities "should not seek to secure shared ownership though the use of planning conditions or obligations".

The Energy Saving Trust suggested that the UK Government's contracts for difference could be a route to making community shared ownership offers mandatory. The trust notes that due to competitive bidding rounds, opportunities for community shared ownership could be threatened by bidders cutting costs to try to win contracts. It was suggested that community shared ownership could be protected if additional points in the contract evaluation were awarded to bidders for offering community shared ownership.

The petitioner raises a number of additional issues. Her view is that some developers refuse to interact with the local community, some refuse to offer community shared ownership, and others might make community shared ownership offers that do not meet the definition of community shared ownership as defined by the Scottish Government. The Energy Saving Trust and the petitioner make a number of recommendations for improvement: they are detailed in the clerk's note in your papers.

Do any other members have any comments or suggestions for action?

**David Torrance:** As with the previous petition, I wonder if we could get the correct minister in and take some evidence. It is quite important. Community ownership of wind farms is vital to small communities. I have several examples in my constituency where it has been beneficial. To me, it is important that we take the petition forward and get the relevant minister or cabinet secretary to come in and give evidence.

**The Convener:** We have decided that we will invite the cabinet secretary to come in relation to petition PE1864, which is a different aspect of the whole wind farm debate, so I think it would be perfectly reasonable to combine this petition with that on that occasion.

**Ruth Maguire:** Forgive me, I do not want to disagree with you, convener, but did we not agree to ask the planning minister in for PE1864? Would it not be the—

**The Convener:** Yes. The committee had delegated it to me to decide on the appropriate

minister—you are quite right. It could be either minister in that event.

**Paul Sweeney:** I was quite alarmed by the Scottish Government's submission, in the sense that it suggests that authorities should not use good practice guidance and planning as leverage. That is a perfectly legitimate thing to do and should be actively encouraged. There are very few forms of leverage available to democratic politics over capital of this nature and scale. If you can drive a harder bargain on behalf of communities to capture more ownership of these projects, that would be a worthwhile thing to interrogate. I am simply asking—without any real thorough justification—why is it not seen as good practice?

Further to the minister coming to the committee, it would be good to probe that particular matter in the context of national planning framework 4 and how that could be changed. It is a timely issue to explore, particularly with the recent commentary around the ScotWind leasing round and how people felt that that might not have been the best possible deal.

**The Convener:** Yes, the same thought had occurred to me: why is it not allowed? Therefore that is very much a question that you could put to the appropriate minister. If colleagues are happy to again delegate determining who that is to me, we will proceed on that basis.

*Members indicated agreement.*

### **Unborn Victims of Violence (PE1887)**

**The Convener:** PE1887, which was lodged by Nicola Murray, calls on the Scottish Parliament to urge the Scottish Government to create an unborn victims of violence act, creating a specific offence that enables courts to hand down longer sentences for perpetrators of domestic violence that causes miscarriage.

The committee has received submissions from the Crown Office and Procurator Fiscal Service, Scottish Sentencing Council, Scottish Law Commission and Victim Support Scotland. The Scottish Sentencing Council notes that it has established a committee to oversee the development of a draft guideline on domestic abuse. The Scottish Law Commission highlights an opportunity to contribute to its programme of law reform consultation that will open in the coming months. In its submission, Victim Support Scotland notes its support for the petition and its aims, stating that it believes an update to the law is necessary.

In view of the responses received, I welcome comments from colleagues.

**Ruth Maguire:** This is a very important topic. We know that women are at increased risk of

violence through pregnancy and early maternity, so I certainly wish to take more evidence. We have some helpful stuff in our papers, but I would like us to invite the petitioner and some other stakeholders in to give us evidence.

**Alexander Stewart:** This is very important. In the past, the committee and Parliament have discussed the whole idea of violence and the creation of the situation. It gives us a chance to clarify the evidence and get more from organisations and individuals who are at the coalface. It is vitally important that we continue to understand the situations and circumstances in which many people find themselves. It is alarming because the incidence of such violence seems to be growing and that in itself is a problem. To have organisations such as Victim Support Scotland and Scottish Women's Aid before the committee would at least give us an opportunity. It would also be useful to find out from the Crown Office and Procurator Fiscal Service about what it wants. Having some correspondence with it or inviting it to give us some insight would be very useful.

11:15

**Paul Sweeney:** I was similarly taken aback by the issues raised. It is an issue I had not considered properly before. The petition is very appropriate. I am particularly interested in the Scottish Law Commission's idea that it could look at developing a project around this if the suggestion was submitted to it. It might be worth the petitioners exploring that idea in addition to petitioning the committee.

It is the sort of thing that might be appropriate as a members' bill. Maybe there is a mechanism for our committee to flag up the petition to colleagues in Parliament who might be considering a members' bill but do not necessarily have a project in mind. It might be a candidate worth taking up. Perhaps we should be making fuller use of the members' bill process, and the petition could be a candidate.

**The Convener:** That is a novel suggestion, but yes, the issues are very important. In the first instance, we will seek to take evidence from the petitioner and the bodies that Ruth Maguire suggested. We will write to the Scottish Sentencing Council, drawing its attention to the issues involved and the evidence that we might seek from the Crown Office and Procurator Fiscal Service, while trying to fathom and bottom out the scope of the potential issue that we are addressing here. It is a very important issue. In the first instance, let us take more evidence, but it might well lead to recommendations that could form the basis of initiatives that others might wish to take forward thereafter.

I think that that is right. I was almost going to ask, "Are we able to initiate bills?" but I think that, as a committee, we are. It is perfectly open to us, but we will get a bit further down the road before we get to that.

Are we agreed in the first instance to hear evidence from the petitioner and relevant stakeholders?

*Members indicated agreement.*

### **Dog Attacks (PE1892)**

**The Convener:** PE1892, which was lodged by Evelyn Baginski, calls on the Scottish Parliament to urge the Scottish Government to make attacks by one dog on another dog a crime and subject to a penalty requiring the owner to pay a fine and reimburse any expenses related to the incident.

The initial Scottish Government response outlined existing legislation and recent consultations relevant to the petition, including stating that people and assistance dogs are protected under the Dangerous Dogs Act 1991. Under the 1991 act, an attack on another dog could be considered dangerous if the test for the offence is met, including reasonable apprehension that it will injure a person or an assistance dog. One response to the consultation in the 1991 act review highlighted that it did not raise the issue of whether legislation should be extended to cover attacks on another dog.

The Scottish Government's most recent response sets out the rationale for including assistance dogs in the 1991 act, stating that

"if an assistance dog is attacked, the assisted person may suffer a significant reduction in freedom through either temporary loss of a dog whilst it recovers or permanent retirement and the resultant wait for a replacement dog."

The submission highlights the Scottish Government's intention to undertake a review of the 1991 act in the near future.

Information has been provided by Polmont veterinary clinic on injuries and associated costs from dog attacks on other dogs, based on details from neighbouring clinics. The costs are detailed in your papers.

Do members have any comments or suggestions for action?

**David Torrance:** Considering the Scottish Government's submission and that it will review the Dangerous Dogs Act 1991, we could close the petition under rule 15.7 of standing orders, but in closing the petition, we could write to the Scottish Government highlighting the evidence from Polmont veterinary clinic.

**The Convener:** That makes eminent sense. Are we agreed on that, colleagues?

*Members indicated agreement.*

**The Convener:** Thank you very much. We will close the petition and forward that evidence to the Scottish Government based on its commitment to undertake a forthcoming and early review.

### **NatureScot (Decision-making Procedures) (PE1895)**

**The Convener:** PE1895, which was lodged by Gary Wall, calls on the Scottish Parliament to urge the Scottish Government to make it mandatory for NatureScot to explain its conservation objectives in decision-making within the framework of the Scottish regulators' strategic code of practice and Scottish Government's guidance, right first time.

The committee wrote to the Scottish Government seeking information on the application of test 2, including whether assessing licence applications on the basis of there being no satisfactory alternative, as opposed to no other satisfactory solution, is likely to lead to a different outcome.

The Scottish Government sought advice from NatureScot and responded to state that

"The terms 'no satisfactory alternative' and 'no other satisfactory solution' are considered to be analogous. This view is supported by the European Commission's recently updated guidance on the strict protection of species, which refers to birds directive case law for the interpretation of test 2".

The petitioner highlights that although NatureScot references European Union Commission guidance, the rejections that he has received in relation to licence applications have been on the basis of actions that are not challenged by the EU Commission in other countries. He states that the

"Scottish Government recognise that 'proportionality' is one of the foundations of regulation and yet in ten years of license refusals it has never been explained to me what factors have been considered in relation to 'proportionality'."

The petitioner concludes by stating that

"at least a citizen should be able to expect clarity in what the conservation objective is in refusing a license."

Do any members wish to comment?

**David Torrance:** I suggest that we write to ask NatureScot whether it routinely provides information about the conservation objectives it is seeking to achieve when rejecting a licence application and whether it plans to do so in the future.

**The Convener:** Are we happy to write to NatureScot?

*Members indicated agreement.*

**The Convener:** As there are no other suggestions, I take it that the committee is content

to hold the petition open and we will write to NatureScot.

### **Council Tax Collection Procedures (PE1897)**

**The Convener:** PE1897, which was lodged by Richard Anderson, calls on the Scottish Parliament to urge the Scottish Government to reform the procedures for the collection of council tax that apply when a person has difficulty in making payment. The committee sought views from stakeholders after its last consideration of the petition and to date responses have been received from the Convention of Scottish Local Authorities, Citizens Advice Scotland and Social Security Scotland.

In response to the petitioner's concerns about individuals not receiving a council tax notice, COSLA suggests that, based on the reliability of postal services and the availability of e-billing, that circumstance should be

"an exception rather than the norm."

Citizens Advice Scotland clarifies a number of points made by the petitioner and makes suggestions for improvements to the council tax system, including a review of the time between the point someone falls behind and the issuing of a summary warrant, as it believes that that is currently "very short"; a review of whether liability for the whole year's council tax should be applied when someone falls one month behind; and a review of how council tax reduction is promoted and ensuring that all councils have an automatic entitlement for those on qualifying benefits.

The committee asked Social Security Scotland whether systems would be designed to automatically notify individuals if they are eligible for a council tax reduction. In its response, Social Security Scotland states that the Scottish Government has commenced conversations with local authorities about opportunities that might exist to make access to entitlements automatic for clients. One example of that is that Social Security Scotland will explore automatic entitlement to free school meals, school clothing grants and council tax reduction for those who are eligible for Scottish child payment.

I open up the discussion for comments from colleagues.

**Alexander Stewart:** Given the information that we have received back—especially from Citizens Advice Scotland—about the timings, about individuals' ability to pay and about the liability that applies when they fall behind, and given the increasing awareness that the whole idea of funds and support for individuals who are finding it difficult to pay is a very important topic, I think that

we need to get more clarity from the Scottish Government as to how it is attempting to address that and whether there is an opportunity to undertake the review that is being sought. That would give us the chance to see and hear what the Scottish Government is planning to do under the process.

**The Convener:** Do members have any other comments? I support what Alexander Stewart said. Given that Citizens Advice Scotland has indicated a number of specific improvements that it would like to see made, I would like to hear what the Scottish Government and COSLA think of those proposals and to ask whether they will undertake a review of the issues raised, in particular the process by which summary warnings are issued and the timescales that are associated with that, because that is quite significant. When Citizens Advice Scotland says that the time is "very short", I would be interested to understand better what that means.

Are we content to write to the Scottish Government and COSLA asking for their reaction to the Citizens Advice Scotland recommendations?

**Members indicated agreement.**

### **Entering Homes without Permission or Warrant (PE1898)**

**The Convener:** PE1898, which is our final continued petition this morning, was lodged by Julia Gow. It calls on the Scottish Parliament to urge the Scottish Government to make it a crime for a stranger to enter someone's home without permission or a warrant.

A response from the Crown Office and Procurator Fiscal Service highlights that the individual facts and circumstances of each case are considered when assessing whether to prosecute. It provides a non-exhaustive list of various offences that may be relevant in a circumstance where a person enters the home of another person without their permission.

Similarly, Police Scotland stated that cases are dealt with according to the circumstances and evidence presented, stating that it is unaware of any scenarios where the existing law is insufficient to deal with matters criminally if required.

The petitioner's response recognises that there are offences that may cover specific circumstances but emphasises that no law currently exists for the specific circumstance that is outlined in her petition. She states that that is frustrating.

Do colleagues have any comments?

**David Torrance:** Considering the evidence from the Scottish Government, Police Scotland and the Crown Office and Procurator Fiscal Service, I do not know whether we can take the petition any further, so I would like to close it under rule 15.7 of standing orders.

**The Convener:** I note that Police Scotland does not believe there are scenarios in which it has insufficient powers. Again, I am not sure that I have bottomed out what the extent of the issue might be but, given what Police Scotland has said and the evidence in the responses that we have received, I think that it is unlikely that the Scottish Government is minded to take the issues further forward. Mr Torrance has suggested that we close the petition under rule 15.7. Do colleagues support that?

**Members** *indicated agreement.*

**The Convener:** We will therefore close the petition and thank the petitioner for drawing it to our attention. It must be a very uncomfortable circumstance.

## New Petition

### Adult Disability Payment (People Undergoing Cancer Treatment) (PE1913)

11:27

**The Convener:** Under item 3, we have just one new petition to consider. As I say to any petitioner tuning in for the first time, in advance of our consideration of a new petition we send it to the Scottish Government to seek its views so that our discussion is just a little bit better informed before we launch into consideration of it.

PE1913 has been lodged by Wendy Swain and it calls on the Scottish Parliament to urge the Scottish Government to create a separate department in Social Security Scotland that will fast-track future adult disability payment applications for people with a cancer diagnosis while they are undergoing treatment.

I am delighted to welcome Martin Whitfield, who is joining the committee on his first visit to the public petitions process, I think. We will hear from him in a moment, but first I will provide some further background on the petition.

Adult disability payment will replace personal independence payment in 2022. The Scottish Government's submission states that the definition of terminal illness will be changed under ADP to remove arbitrary time constraints and ensure that decisions are better informed by clinical judgment. Research into the impact of the new definition has revealed that the number of people with cancer accessing ADP using the fast-track process will more than double compared to Department for Work and Pensions fast tracking.

It is estimated that the number of terminally ill ADP recipients who have cancer will increase from 2,800 to approximately 8,200 under the new definition—a whopping increase—and it is projected that a majority of ADP recipients with cancer, 62 per cent, will be able to use fast-tracked processes, compared with less than a third who were able to do so under PIP. Further changes to the delivery of disability benefits through ADP are detailed in the clerk's note. The Scottish Government has stated that it does not support an additional fast-track route specifically for people with cancer and that its approach will not prioritise any single condition over another.

The petitioner shares the experience of her family member who has incurable blood cancer and who has been told that his illness is not affecting his life enough for him to receive PIP.

Before the committee considers the petition, I welcome Martin Whitfield and invite him to speak in support of it.

11:30

**Martin Whitfield (South Scotland) (Lab):** Thank you very much, convener, and good morning to you and the committee. A very educational morning it has been too, listening to your debates.

I thank Wendy Swain for lodging the petition. She has shared family circumstances that are incredibly trying. This Friday is of course world cancer awareness day, so it is perhaps apt, if only coincidental, that this petition should come before your committee this week.

We are at the moment of transition from PIP, which is Westminster-controlled benefit, to ADP here in Scotland, where one of the great promises of devolution is the ability to do things differently. I welcome the additional submissions that the petitioner has made, which very eloquently express the circumstances of her family. I thank the Scottish Parliament information centre and your clerks for the accompanying notes.

I understand why the substantive part of the Government's response of 1 December relates to the changes for this benefit in respect of terminal illness, but not all cancers are terminal, thankfully. Nevertheless, cancers affect every individual and their family when they receive that diagnosis. The petitioner's intention was to raise awareness of the circumstances where cancer is not identified as terminal early on in the diagnosis but the effects are still enormous and substantial. I can do no more than highlight the original background information that the petitioner gave, which was that she lodged the petition to

"ensure that the principles of being treated with dignity, fairness and respect are applied to people and that they are able to access ADP during their treatment when they most need support."

That treatment needs to begin very swiftly and it is at that point that the financial impact of cancer hits families—and hits them very hard.

I know that the Government has said that it does not want to prioritise how it deals with applications by condition but merely wants to base it on the terminality of the condition. It has said—I think that we are all in agreement with this—that it hopes that the voyage of any claimant is far better under ADP than ever it was under PIP. That is both applauded and welcome.

However, the petition talks about the effect of a cancer diagnosis and how that was exacerbated by the experience that the petitioner had with a family member trying to obtain PIP and the stress

and almost mental harassment that occurred because of events that were outwith the individual's control. We need to have a fast-tracked system for people with cancer. It is certainly one of the few conditions where the mere name of it sends a shudder of fear through people who have not experienced it. People who receive a cancer diagnosis are often in difficult circumstances and to then have the financial barriers that loom so quickly afterwards is enormously challenging.

Because of the week that we are in but also because we are currently designing what this benefit will look like in Scotland, there is an opportunity to understand through the charity and third sector organisations that deal with cancer how widespread this problem is and why dealing with it quickly is of huge benefit to those who are going through the system. Thank you, convener.

**The Convener:** Thank you for that contribution, Mr Whitfield, and particularly on behalf of the petitioner. Notwithstanding how this is subsequently resolved, when someone is told that their illness is not affecting their life enough, I wonder how that definition is arrived at and whether the person imparting that sage advice would feel much the same way if it was being imparted back to them in return. It seems to me remarkably unsympathetic.

Colleagues, are there any suggestions how we might proceed?

**David Torrance:** I would like to keep the petition open. We should write to the charities Macmillan Cancer Support and Cancer Research UK to seek their views on what the petitioner is calling for but also to seek their views on how improvements by the Scottish Government will affect payments for people.

**Alexander Stewart:** As Mark Whitfield indicated in his presentation, we have an opportunity here to engage with the third sector. We talk about dignity, fairness and respect, and I think that it fits those criteria for us to at least investigate this matter for those individuals going through the horrific experience of being given such news and having to cope. The third sector organisations have a wealth of knowledge and experience of what takes place with individuals who are suffering, so it would be very beneficial to have their input as well as to find out from the Scottish Government how it wants to progress this. We should keep the petition going so that we can clarify that and take further information and evidence.

**The Convener:** Are we content with those proposals? We will keep the petition open and we will write to the organisations as summarised. I thank Mr Whitfield for joining us this morning. We

will hear and consider the petition further when we have received responses to those inquiries.

That concludes the open part of this morning's meeting. I thank those people who have been following our proceedings and we will now move into private session.

11:37

*Meeting continued in private until 12:00.*





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

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