



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Citizen Participation and Public Petitions Committee

Wednesday 4 October 2023

Session 6



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**Wednesday 4 October 2023**

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**CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE**

**14<sup>th</sup> Meeting 2023, Session 6**

**CONVENER**

\*Jackson Carlaw (Eastwood) (Con)

**DEPUTY CONVENER**

David Torrance (Kirkcaldy) (SNP)

**COMMITTEE MEMBERS**

\*Foyso Choudhury (Lothian) (Lab)

\*Fergus Ewing (Inverness and Nairn) (SNP)

\*Maurice Golden (North East Scotland) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

George Adam (Minister for Parliamentary Business)

Doreen Grove (Scottish Government)

Marie McNair (Clydebank and Milngavie) (SNP) (Committee Substitute)

Edward Mountain (Highlands and Islands) (Con)

Alex Neil

**CLERK TO THE COMMITTEE**

Andrew Mylne

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Citizen Participation and Public Petitions Committee

Wednesday 4 October 2023

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

### Decision on Taking Business in Private

**The Convener (Jackson Carlaw):** Good morning, and welcome to the 14th meeting of the Citizen Participation and Public Petitions Committee in 2023. We have apologies from our colleague David Torrance, the deputy convener. His substitute, Marie McNair, joins us online. Good morning, Marie, and all those following our proceedings.

Under agenda item 1 we must decide whether to take in private agenda item 6, which relates to our public participation inquiry report, in which we recommended the establishment of two further people's panels this parliamentary session. The committee has a role in choosing the topics for the panels and item 6 allows us to consider a recommendation from the Parliament's participation and communities team on the topic for the first panel. It also allows us to consider the topic in the context of the chamber debate on our report, which will take place on 26 October. This morning, I facilitated a Scottish Parliament information centre business breakfast about the committee's report, so there is quite a lot of interest in and engagement on it. Are members content to take item 6 in private?

**Members** *indicated agreement.*

## Pre-budget Scrutiny 2024-25

10:02

**The Convener:** We have a packed gallery for the excitement of our consideration of petitions in due course, but we have two evidence sessions to take immediately. The first, unusually for the committee, is on pre-budget scrutiny. We usually resist that opportunity, on the basis that the committee does not have the same involvement in the budget as do other committees.

We welcome George Adam, the Minister for Parliamentary Business. The minister is supported online by Doreen Grove, head of open government, and by Amy Watson, principal research officer, both at the Scottish Government. Good morning to both of you. I assume, minister, that if you want your colleagues to come in, I can leave it you to invite them to contribute to our thinking. I understand that you would like to make a brief opening statement, which would be helpful. I think that you probably understand the narrow focus of our interest in relation to the budget. Over to you.

**The Minister for Parliamentary Business (George Adam):** If you feel that you do not need to ask me back for budgetary reasons in future, do not feel obliged to do so. I am a bit disappointed that the crowd is not here to see me; it must be here for the excellent work that you will be doing later.

I thank the committee for asking me along. The Scottish Government's vision for public participation is for people to be involved in decisions that affect them, making Scotland a more inclusive, sustainable and successful place. In summer 2021, we established the institutionalising participatory and deliberative democracy—IPDD—working group to help us develop the infrastructure and skills needed to deliver that vision. In March 2022, the working group published its recommendations, which focused on developing a broad range of democratic innovations. In March 2023, the Scottish Government published its response to the recommendations.

The Scottish Government agrees with the working group on the importance of the availability of high-quality, meaningful and inclusive opportunities for public participation in order to ensure that public services deliver what people need to improve their lives and outcomes. That remains a vital driver for reform. We recognise that that means significant changes to the ways in which policies and services are developed and implemented, with partners, stakeholders and the people of Scotland playing a vital role. Our

response sets out what we will do in order to deliver on each of the working group's recommendations and notes the current limits on our ability to deliver our complete vision. Those limits are a result of the financial situation facing the Scottish Government, which continues to be the most challenging since devolution. Nevertheless, we still recognise the important benefits of involving the public in decisions that affect them.

We live in times characterised by complex challenges: the climate emergency; substantial economic turmoil and the cost of living crisis; and the Covid-19 pandemic and its legacies. By drawing on the considered views of the public, the Government will be better equipped to take the complex and difficult decisions that we face. Public understanding of and input into those difficult decisions can help us chart a route through that is fairer and that meets the fullest range of people's needs.

I am happy to take questions from the committee.

**The Convener:** Thank you very much, minister. Yes, we eventually got the Scottish Government's response to its own inquiry. We certainly exchanged calendar dates for some time about when that might be coming and, eventually, it did.

I will sum it up in short and outline the concern that underpins my question. The committee has now completed its report on deliberative democracy in consequence of the extensive inquiry that we held. The Parliament asked the committee to lead on that inquiry at the start of this parliamentary session, following the recommendation from Ken Macintosh's Commission on Parliamentary Reform in the previous session that we look into that area. As a committee, we have been on a journey, but our report is enthusiastic about the opportunities that are presented, which are in two forms: what the Government can do and what the Parliament can do. The Parliament will debate our report in the chamber at the end of the month and we very much hope that the parliamentary aspect can be taken forward.

The Government's response appears to accept the emerging use of citizens panels and their value and probably even the lessons learned from the experience of the Scottish Government model. Ultimately, however, the response is that "There is nae money." I accept that, and we think that it will probably cost about £1 million a pop to hold a meaningful citizens panel on the model that we have seen in other national Parliaments.

In the first instance, I want to understand whether there has been a diminution of enthusiasm for the concept of the citizens panel as

a result of the Scottish Government's experience to date. Is money being used as a lever to suggest that the panels do not have quite the role that the Government had thought, or is it still very much the Scottish Government's intention to find a way and a means, at some point, of embracing the concept of citizens panels as an embedded process in Scottish public life? If that is the case, is there an idea in your mind or in the Government's mind about whether that is likely to happen in this parliamentary session, or will it most likely be in a subsequent session?

**George Adam:** When you say "citizens panels", I assume that you are talking about the assemblies.

**The Convener:** The citizens assemblies, sorry, yes.

**George Adam:** There are other—

**The Convener:** In fact, the whole nomenclature of this stuff is difficult to be certain about, but, for citizens assemblies, let us talk about the idea of a unit of about 100 people convening to undertake a proper exercise.

**George Adam:** I will answer your question as carefully and concisely as possible. We still believe that citizens assemblies are a way forward. Do we have financial constraints? Yes, we do. The level of citizens assembly participation that we were looking for will need £2.8 million to set up. That is challenging at this time, as you will be aware. When everyone in every portfolio and across portfolios is looking at their budgets, it is difficult.

Are we engaging with the public in other ways? That is why I asked a question in return. We are using other panels involving the public to ask the same questions and to engage at a smaller level. The enthusiasm is still there; the question is whether I can get the funding. Obviously, funding has moved and it will now be from the individual portfolio that is asking the question of the citizens assembly. We are looking at individual portfolios to deliver, and they are looking at that, but they also face challenges.

My opinion about citizens assemblies in general and how we go forward with them is that we should do what other nations have done and keep the questions pretty simple. The first two questions that we asked were wide-ranging: how do we save the planet and what is Scotland's future? Those are big questions and it is difficult to find out what we could deliver from those reports. The Republic of Ireland used citizens assemblies to deal with questions that its politicians found difficult to discuss in their Parliament: they were able to use the public to push them forward. For example, a citizens assembly was used to discuss abortion.

Assemblies provide an opportunity to really look at a subject.

We have committed to look at council tax and how local government is funded, and it would be interesting to hear what the public said when they got all the facts and figures in front of them. We politicians have kicked that question around for all the time that I have been in the Parliament and it would be an interesting subject for a citizens assembly. Our main issue, at this stage, is getting funding for the assemblies, but we are still engaging with the public through other means to answer such questions.

**The Convener:** That is very helpful. Some of that will be the subject of the debate that we will see in the chamber. I share your analysis of the nature of subjects that can be best deliberated through this process.

Given that there is other engagement going on, as you say, how is that quantified as a cost that the Government is undertaking across the different portfolios? Are you able to quantify the cost of the engagement that the Scottish Government is currently offering?

**George Adam:** The direct answer to that is no, at this stage, but it is something that we have in mind to work out. One of our responses to the IPDD working group was that we are looking to get a central unit within Government that will be able to go out to the various directorates and quantify that cost. The whole point is to make sure that the very idea of open government is at the heart of each portfolio and directorate, so that they think that it is a normal part of their day-to-day work and not just something extra that has been added in from above. However, I understand that we still need to get a centralised team that is able to correlate all the information, so that I can come to you and say, "Well, that costs £X".

**The Convener:** I will bring in colleagues in a second. On the face of it, it looks as though the public information budget will be reduced in the next year. Is that correct, or is it now being allocated in different ways that might mean that the headline public information budget does not reflect what you expect to spend?

**George Adam:** Again, we are talking about a mix-up of terms and everything else with this subject. The budget line entitled "Public Information and Engagement" refers to marketing and communications, rather than public participation. That is at £2.3 million for 2023-24, compared to £2.8 million in 2021-22 and £2.7 million in 2022-23. That is not the budget for public participation; it is the budget for communications and marketing. It is nothing to do with citizens assemblies or anything like that.

**The Convener:** Okay, thank you. Colleagues, would anyone like to come in?

**Fergus Ewing (Inverness and Nairn) (SNP):** I want to raise a wider issue about citizen participation. As we know, the purpose of this committee—good morning, minister—is to act on the side, as it were, of David versus Goliath, which is the Government.

**The Convener:** Is that a metaphor that you recognise more generally, minister?

**George Adam:** Generally, coming from Mr Ewing, yes.

**Fergus Ewing:** I will try not to be too predictable, then. Just extending the metaphor one more time, our purpose is to provide David with a sling so that there is some equality in the weaponry. To be serious, we find that many of our petitions relate to concerns that ordinary people—citizens of Paisley or Inverness—have with Government agencies, the authorities and the powers that be. In fact, those petitions probably account for more than half of the total.

10:15

I want to raise a specific example. Last week, the convener of the Finance and Public Administration Committee, Kenneth Gibson, pointed out the cost of the commissioners, also known as tsars. There is a plethora of those commissioners in Scotland, and the cost amounts to £80 million over a five-year period. We will discuss the A9 later, but a 10-year saving on the tsars—if we decided to purge them in Scotland—would save £160 million, which just happens to be £10 million more than the cost of the proposed dualling of the section of the A9 from Tomatin to Moy. Minister, you may not have direct portfolio responsibility for the tsars, but, given that we really need to look at making savings, do we get value for money from our tsars? Are they any more relevant to our citizens than the Romanovs were to the Russians in their daily life? Would it not be worth considering a purge of the tsars and, if so, does history not tell us that October is not a bad month in which to carry it out?

**George Adam:** You are as eloquent as ever, Mr Ewing. That is not my portfolio to discuss. I take your point that we should have a conversation, but that is for the Scottish Parliamentary Corporate Body and the Parliament, because they are the ones who deal with that budget, as Mr Gibson said in his question last week. For every single commissioner, there will be stakeholders who value the work that they do and understand how important it is, but you are right that there is a question to be asked and a debate to be had by us all as to how we go about such work. In New Zealand, I think, they have an office of the

commissioners where they all work under one office, so you no longer have each organisation operating on its own. The Government is not looking at that; I am just aware that there are different ways of working. It is always about a balance between giving something to the stakeholders who value the work of that commissioner and what we can go forward with, looking at the finances. I agree, Mr Ewing, that it is possibly a discussion and debate that we should have in the Parliament.

**Fergus Ewing:** I am grateful for the minister's reply. It is not ungenerous, and it is appreciated. I will just comment that we spend a lot of time in the Parliament deciding how to spend ever more quantities of taxpayers' money, but we spend very little time reviewing how much value for money we get from the billions that we spend every year. With the pressures that face us now, perhaps that argument's time has come. I am not necessarily in favour of a mass purge and assassination, but a sunset clause, for example, was another idea that was put forward. That would be a gradual turning off of the lights.

**George Adam:** As I said, we definitely need to look at having that debate. That is not a Government view; I am just looking at it personally from the point of view of how you deal with the situation in the question that you asked.

**The Convener:** Thank you, minister, for your flexibility beyond the targeted focus of our agenda. I say that as the mover of the Parliament's only ever sunset clause that will lead to a bill's coming back before the Parliament, so that we can take a further view on it.

I come back to the issue in hand of citizen participation in democracy. Obviously, the budgetary constraints that you talked about mean that, although the enthusiasm might still be there, the financial underpinning to allow that work to proceed is not. What implication does that have for the institutional experience and architecture in the Scottish Government that was involved in the organisation, running and understanding—in fact, the learning—of the citizen engagement work that has been done? What is happening to the individuals or the infrastructure that supported that work, given that there is no immediate intention to proceed?

**George Adam:** I will bring in Doreen Grove. This is one of her pet subjects and she will be able to give you a more complete answer than I can.

**The Convener:** Thank you very much. Doreen, good morning. [*Interruption.*] I am sorry, we cannot hear you.

**Doreen Grove (Scottish Government):** Can you hear me now? I am sat at a conference in

Copenhagen on the future of democracy, including citizens assemblies.

To answer your question directly, we are not just sitting on our hands and waiting for finance to turn up. We have been careful to take the learning from the IPDD report and, indeed, from the two secretariats that were set up to make sure that, as we move forward in the ways that we use deliberative democracy, we share that learning and improve how we do things. We are putting in place the foundations to make all this work much more focused and better understood by public servants, so that they have access to easier ways to procure resources for working both with children and young people and with adults.

We are putting a procurement framework in place, and we have a participation framework that tries to help to provide guidance on how people can best get involved in Government decision making. While we look across Government to find the skills that can be brought together to drive some of the higher-profile work, such as citizens assemblies, we try to put high-quality participation on the agenda and, as Mr Adam says, feed that into the ways in which we work. We are putting in place advice and identifying how we do participation over time so that, when budget becomes available, we are able to create a team that will be able to lead this and drive it much more effectively. All that foundational work will be there.

We keep entirely up to date with the fantastic work done by your committee and also with what has been done internationally. We are trying to make sure that Scotland keeps its international standing of being a reforming place and a place that cares about how it brings in the voices of its population in a way that is properly inclusive.

My team and I have been working around that equalities idea and building up our ways of making sure that we hear seldom-heard voices, because, often, Government is more difficult to reach than if we get out and properly talk to people.

**The Convener:** Thank you. I have a point to make and a follow-up question. I very much agree about taking as much understanding as possible from international examples. In our report, the committee decided not to recommend a legislative process at this time, because we felt that the model that might suit the Scottish dynamic would need to evolve as a result of experience and learning from other jurisdictions. Our experience, having visited Ireland and Paris and having engaged with Brussels, is that there is no one-size-fits-all model. A model has to evolve within the constitutional architecture of every country to ensure that it achieves its proper outcome. I am delighted that that work is still going on.



My follow-up question is whether you are satisfied that, within the Scottish budget as it is currently constituted, the funds are in place to allow you to undertake that continuous evaluation and work to determine where we might land in respect of any architecture that we put in place for participation at that kind of level.

**Doreen Grove:** I am in Copenhagen with the leaders of all of the work that you just outlined. They are all here.

The answer on the budget is that “satisfied” is a big word. I would love to have quite a bit more money, thank you very much. We have sufficient at the moment, however, and we have sufficient weight and understanding. We run a kind of virtual team in Government to bring in the expertise that we need. As we develop and properly put in place what the IPDD report recommended, we will be much better placed to work on those things.

The team that is working on this is conscious of what is happening at home in the community empowerment world as well as what is happening internationally. We will make sure that that feeds into our work. Hopefully, we will come back to the committee to share that experience.

**The Convener:** Thank you very much for your candour: that was very enlightening. I do not think that we have any further questions. I am sorry: Mr Golden wants to come in. Mr Adam, do you want to come in before Mr Golden?

**George Adam:** I was just going to say, after Doreen’s very public pitch for more funds, that she engages with colleagues across the world. There are yearly events: there was one in Rome last year and one in Tallinn this year. I did not manage to make it to those, incidentally. For the Rome one, I was in Aberdeen at the Scottish National Party conference, because I know the right thing to do. For the Estonia one, I had to be here to deal with the programme for government. However, it is important that we have those engagements, because we do not believe that we have every single good idea or right idea. It is about seeing how those other models might fit with us.

**The Convener:** You may have felt that it was the right idea, Mr Adam, but I am not sure that it was the most enlightening of the options that were before you.

**Maurice Golden (North East Scotland) (Con):** I am sure that committee members would be willing to fill in on your behalf, minister, at any of those events.

I want to make two interlinked points. We have seen a 37.7 per cent reduction in the real-terms budget. I wonder whether, either now or in writing, you could give us a breakdown of how that total budget will be spent: the relevant workstreams

that the proposed £2.3 million might be allocated to.

Secondly, you mentioned public participation across different departments. I am interested to know how you monitor that. For example, this year, we will have the climate change plan, which is a really meaty document. You mentioned the assembly that addressed the question of how we save the planet. How will you monitor how that climate change plan is being disseminated and how the public are being allowed to participate in what can be a very technical document?

**George Adam:** Okay. To answer your first question very quickly, as I said, the £2.3 million is not our budget for public participation, so that is not the case.

How do we manage to bring it all together? As I said earlier, one of the things that came out of the IPDD working group was the fact that a lot of good work was happening in pockets all over Government. It was a case of us finding a central group that would bring all that together—how much the costs are and what we are doing—so that I can sit in front of you and say that we are doing X and Y in various directorates. We have decided that we are going to put that team in place, in order to make sure that we have that information and can do that. Can I tell you right here and now what is happening in various other places? Probably not, and definitely not off the top of my head. The whole idea is to get the culture of public participation into every part of Government. You will understand that, in an organisation of the size of the Scottish Government, that can be quite challenging.

I have experience of that, because freedom of information requests are part of my portfolio. I have seen what happens when you make such a culture change, as we have done recently, and you make sure that such activities are pushed as part of the day-to-day work of Government and not an addition. Getting the mentality of, “This is what we do. This is part of the job,” into the organisation as a whole is extremely important.

Do these things happen overnight? No, but I as minister, and Doreen Grove and her team, push for that in Government all the time. We have committed ourselves to having a centralised team. At a time when we are looking at taking resources away from various places, we will invest in that team in order to make sure that we get the detail.

**Maurice Golden:** What metrics do you use to assess whether departments are successfully engaging with the public?

10:30

**George Adam:** I will ask Doreen to answer that, because she is at the coalface on that issue.

**Doreen Grove:** Thank you. There is no coalface, so my answer is in two parts. We currently have a tiny team in the Government and we try, through our open government work, to ensure that there is at least an understanding of the very biggest areas. You mentioned climate change; there is an action plan commitment around that. There is also one around how the public get involved in our health and social care reforms.

One part of the role of that extended team would be to properly evaluate the standards that are set to ensure that the participation that is happening is fair and is bringing in voices that we need, so that we can answer those questions much more effectively in the future and that we do the kinds of participation that really will have an impact and effect. It is about investing where it is needed and sharing learning, so that we do not keep going back to the same people to ask the same questions, because you hear a lot that there is consultation fatigue. We need to be really careful about how we use and invite people to be part of the work of Government.

**The Convener:** Okay. Doreen Grove, Amy Watson and minister, thank you very much for your participation and attendance. We will have a brief suspension while we move to the next session.

10:32

*Meeting suspended.*

10:33

*On resuming—*

## A9 Dualling Project

**The Convener:** The next item on our agenda is an evidence session as part of our inquiry into the A9 dualling project. It relates to our consideration of petition PE1992 on dualling the A9 and improving road safety, as lodged by Laura Hansler. As colleagues and those following our proceedings in relation to that petition might know, we are joined by Edward Mountain in his capacity as a reporter from the Net Zero, Energy and Transport Committee on this matter. Good morning to you, Edward.

Our consideration of the issue has seen us invite evidence from the petitioner, the transport and civil engineering industries, community councils and road safety organisations. Indeed, we had an evidence session in the region earlier in the summer to gather views from people, businesses and organisations along the route between Perth and Inverness. Key themes that have emerged from that consultation are set out in the SPICe briefing that is included in the committee's papers.

We have primarily been focusing on the action that needs to be taken to get the project back on track. In early September, however, we agreed to explore the Scottish Government's decision in 2011 to commit to a 2025 target for dualling the A9 between Perth and Inverness. That is the focus of today's discussion.

I am absolutely delighted to welcome back a well-kent face to the Scottish Parliament's proceedings: Alex Neil, the former Cabinet Secretary for Infrastructure and Capital Investment, who is—I am sure—the man to enlighten us on those matters. It is certainly good to see you back with us. You are somebody who, like me or, one might argue, other members of the committee, never shies away from being forthright in your views, so I am sure that we will have an enlightening evidence session. Before we move to questions, it would be helpful if you made an opening statement.

**Alex Neil:** Thank you very much indeed, convener, for that warm welcome. It would be useful if I gave an overview of why we took that decision way back in 2011. As you know, the Scottish National Party made a manifesto commitment in 2007 and another in 2011 that we would dual the A9 between Perth and Inverness and upgrade the A96, although it did not specifically say that in the 2011 manifesto; it said that we would have a dual carriageway between Inverness and Aberdeen.

After the 2011 election, I was appointed as the Cabinet Secretary for Infrastructure and Capital Investment in the Scottish Government. That

meant that I had responsibility for the national infrastructure investment plan, which was due for update later in 2011. The infrastructure investment plan covers every aspect of capital investment right across government, including housing, climate change, schools, universities, roads, rail and other aspects of transport, as well as broadband. The document is wide ranging.

When it came to the roads budget specifically, I looked at how we could implement the manifesto commitment. I set a strategic objective for Transport Scotland and the Government that, at the earliest possible opportunity, we should link the seven cities in Scotland—Glasgow, Edinburgh, Perth, Stirling, Dundee, Aberdeen and Inverness; we now have eight because Dunfermline is a city—either by dual carriageway or by motorway. The reason for that was fivefold: to stimulate economic growth; to improve the overall productivity of the Scottish economy; to reduce emissions; for social cohesion and inclusion; and, last but not least, for road safety considerations.

I asked officials to come up with a plan to achieve that objective and for the earliest realistic date by which we could do it. There were two major considerations. The first was the physicality of being able to plan the road, because when you plan such an ambitious project as dualling the A9 between Perth and Inverness, you are talking about the acquisition of land, the bits of the road that are ready to be dualled quite easily from previous works and other bits of the road that are very challenging indeed. Overall, the physical ability to do that was a major consideration and so I asked my officials to be realistic but ambitious.

When it came to funding, we had to look at the Scottish Government's long-term capital programme. In particular, we looked at the period from 2015 to 2030, because, by the time the preparation was done, we knew that we would not get most of the capital works done before 2015, given the procedures that had to be gone through for the acquisition of land, all the ground assessments and all the rest of it, and we looked at the likely amount of capital that would be available for investment, how much was committed and how much was left that was uncommitted. That is the key figure. When that exercise was done in 2011, we estimated that £14.7 billion of capital was not allocated to any project or designated for any purpose between 2015 and 2030. I can explain some of that in more detail later.

The estimate for dualling the A9 between Perth and Inverness was a working assumption, as was normal for a project that had not been costed in detail. The working assumption, which was at the high end of the estimates, was that it would cost roughly £30 million a mile. It was the same for the

Aberdeen to Inverness dualling. We estimated that the maximum figure for both the projects would be £6 billion. That would have been only 40 per cent of the available capital at that time, so there was still 60 per cent to do all of the things that we wanted to do, which were also priorities in other areas. We then built that into the national infrastructure investment plan that I announced on 6 December 2011.

We received clear advice on the dates that were set. I emphasise that point, because I have been reading through previous evidence sessions of the committee. I asked Transport Scotland to be realistic, and it assured me that, physically and financially, it was perfectly feasible to achieve the dualling of the A9 between Inverness and Perth by 2025 and between Inverness and Aberdeen by 2030. As I said, we published that decision in December.

Road safety was a major consideration. Some officials tried to claim that the A9 was not the most dangerous road in Scotland, but it was certainly one of the most dangerous roads in Scotland. Since 1979, there have been 335 fatalities on that stretch of the A9—remember that it goes north of Inverness as well—with another 13 last year, which was a record for 20 years. I am afraid to say that those who say that the A9 is a safe road are not looking at the evidence and the facts.

I am disappointed by the delay, because we had a detailed schedule. In preparation for today, the permanent secretary, as he can under the ministerial code, gave me access to all the papers that I had in relation to the A9 and the A96 during my period as the cabinet secretary for infrastructure. I am not allowed to print those or forward them to other people, but I have made a note that, on 28 May 2012, at my request, I received a detailed memorandum from David Anderson, a senior official in Transport Scotland, addressed to me and Keith Brown, who was my deputy and the Minister for Housing and Transport. If you get that paperwork—I strongly suggest the committee demands it—you will see that annex D gives the outline programme for the completion of the A9. I will quickly read it out, because it should be put on the record, and then I will be happy to answer questions.

Luncarty to Birnam was due to be finished in 2018-19; Birnam to Ballinluig in 2024; Pitlochry to Killiecrankie in 2022; Killiecrankie to Glen Garry in 2024; Glen Garry to Crubenmore in 2024; Crubenmore to Kincaig in 2025—that would have been one of the last bits; Kincaig to Dalraddy in 2017; Dalraddy to Slochd in 2025; and Tomatin to Moy in 2021. That last bit was completed in 2021, but I signed it off for approval on 30 May 2012. Why it took nine years to complete I do not know, but it was completed in 2021. The other parts,

apart from Luncarty to Pass of Birnam, have not been started. I am sorry; one of them has, but it has certainly not been completed. It is extremely disappointing and very damaging to the Scottish economy, and proportionately far more damaging to the Highlands and Islands, that that well-thought-out project has not been completed, let alone completed on time.

I am happy to answer any questions.

10:45

**The Convener:** Thank you very much, Mr Neil. There is some fascinating new information for the committee in the detail that you have given.

Colleagues are keen to come in with questions. I offer you the opportunity to make one observation, which is to speculate, although that is always a dangerous thing to do. When the decision was announced, you were clearly satisfied that a detailed programme was in place that would allow for the project to be completed by the specified date and that, within the funding allocations that were anticipated to be available, you had a reasonable expectation that the project could be funded without compromising the Government's ability to proceed with other projects that were also important.

Something therefore happened. When you made the decision, even though there was a manifesto commitment, was there any resistance to the principle underpinning the decision from those, perhaps from Transport Scotland or elsewhere, who did not feel the same obligation to respect manifesto commitments that you, as a minister, might have felt were important? Did you feel that your successors might be influenced by other considerations at that point that you had been determined to overrule and insist were not adhered to?

**Alex Neil:** First, I emphasise that I did not set a date and then ask officials to give me a programme for meeting that date. I asked them for the date. They had to be absolutely sure that all the work could be done, as they had recommended, by 2025 and that the money would be there in the long-term capital programme, as the Finance, Employment and Sustainable Growth Department, under John Swinney, confirmed it would be. There is therefore no question whatsoever in my mind that everybody agreed with the official advice that it could be done and that each stretch could be done by the time that I set out for it, as I told the committee a minute ago.

It would be fair to accept a delay of perhaps a year or 18 months because of the impact of the pandemic. Until the pandemic came in 2020, however, there was no excuse for having missed the deadlines. That is the first point.

The second point is that I was reshuffled from the position in September 2012. I became Cabinet Secretary for Health and Wellbeing, and Nicola Sturgeon took my job as Cabinet Secretary for Infrastructure, Capital Investment and Cities. One reason why I asked for a specific programme for when each section would be completed was that I knew how bureaucracy worked. I run businesses, so I know what it is like. Sometimes you have to nail down your advisers in the private sector, and those in the public sector, to make sure that there is no wriggle room for excuses and delay.

Bear in mind, convener, that, although it was a huge project, it was not the only huge project that we were doing. Since 2007, we had completed the M74 so that we could get the Commonwealth games to Glasgow. We had started the Aberdeen western peripheral route, although it was delayed because of matters outwith our control. We did the Queensferry crossing, which was not in the initial manifesto, as a result of developments on the old bridge. One of the projects that I signed off in 2012 was the upgrade of the M8 and M74 around the Raith interchange, which has brought enormous economic benefits to central Scotland.

I think that there was a mentality among some people, and it might still be there, that the Highlands and Islands are peripheral. The same is true of the south-west of Scotland. The A77 between Ayr and Cairnryan and Stranraer should have been dualled years ago for exactly the five reasons that I outlined for dualling the A9. The A82 should also have been done years ago.

One of the complicating factors in recent years—although only in recent years—has been the influence of the Greens. They have a legitimate point of view, which I do not agree with, that you do not build roads. We could go back to the horse and cairt and see how we get on with that. My view is that emissions come from the combustion engine, not from the road. The way to solve the emissions in road transport is to replace the combustion engine with hydrogen buses or electric cars, which we are in the process of doing. Even with electric cars and hydrogen buses, you still need decent roads on which to travel. I have never seen the argument that the road is the problem; it is the combustion engine that is the problem. Therefore, I disagree with the idea that we should halt the road programme or deprioritise it because of climate change. The climate change argument does not hold up, other than in terminating the life of the combustion engine.

My immediate successor was Nicola Sturgeon, who held that position until she became First Minister in November 2014. Since then, there have been successive transport ministers. Keith Brown remained transport minister for a while, Michael Matheson was transport minister for a

while, Humza Yousaf was transport minister and Jenny Gilruth was transport minister, so you will have to ask them. Unfortunately, I can only access the cabinet papers from my period as cabinet secretary. That is why the committee must use its powers to the maximum and demand to see all the paperwork from 2011 to today on the A9.

That request has so far been refused. I heard George Adam talking about open government: the best way to demonstrate that is to provide all the relevant paperwork to this committee on the dualling of the A9 and the A96. Then we will believe that there is open government.

**The Convener:** Thank you for that. Lots of colleagues want to come in. Mr Golden has a specific supplementary on a point that was made in the latter half of that response. You can come back to any other points that you want to make later on.

**Maurice Golden:** Mr Neil, you mentioned compatibility with climate change. In section 94A of the Climate Change (Scotland) Act 2009, there is a requirement on ministers, when they publish an infrastructure investment plan, to

“also publish an assessment of the extent to which investment in accordance with the plan is expected to contribute to the meeting of the emissions reduction targets.”

The Scottish Government recently admitted to me in a written answer that the material that has been published falls short, but, at the time, was the assessment that the dualling of the A9 was compatible with climate change targets?

**Alex Neil:** Yes. That is why you need to see the documentation. I referred to annex D of a paper that was dated 28 May 2012. It took me some time to go through all the paperwork, but there were detailed assessments of the impact on emissions, of the economic impact and of the impact on a range of measures. Earlier, you asked Mr Adam about metrics. Believe you me, when it comes to road projects, we ain't short of metrics, and the climate change metrics were in there, although the quality of the metrics on climate change today are far superior to what they would have been in 2009. The paperwork that I have seen relates only to my period, which was from May 2011 until September 2012.

Estimates were made of the impact over time of the project—it was the same with the A96—on emissions, on the economy, on social inclusion and on the rural communities in the Highlands and Islands. Clearly, a lot of those communities were going to benefit enormously. One of the reasons that Inverness has become one of the fastest-growing cities in Europe is that people were expecting the connectivity between Edinburgh, Perth and Inverness that the A9 dualling would

have brought. Would Inverness have grown even faster if we were now only two years from the completion of the A9? I would bet my bottom dollar that not just Inverness would be growing even faster, because there is a spillover into the much wider Highland communities.

It is not just the A9, by the way. If I had remained as infrastructure secretary, my next task would have been to look at the other aspects of the Highlands and Islands and the south-west, which have by far the poorest service in Scotland. I have already referred to the A77. For parts of the A77 to be classified as an A road is a joke, frankly. The A82 badly needs to be upgraded. I am not saying that it has to be a dual carriageway, but it badly needs to be upgraded. A huge mistake has been made in looking only at one part of the Argyll area. We need to have a strategic look at the connectivity between Glasgow and Oban, road-wise and rail-wise and what we should do to make sure that we can open up Argyll much more. The forestry industry is of critical importance to the Argyll area, but it is also critically important to Scotland, as is the Dumfries and Galloway forest. The lack of ambition is mind-numbing.

**Maurice Golden:** We could also do with an upgrade at the Kingsway in Dundee to link the roads between Perth and Aberdeen.

**Alex Neil:** I studied in Dundee. It is a lovely city with lovely people.

**Fergus Ewing:** Thank you very much for your evidence this morning. It has been informative, revelatory and quite explosive. My constituents want to know why we have not delivered our promises, and you are steering us towards the answers today. I just want to probe a couple of bits of that.

You said that the officials had provided you with the timing of when each section could be done. You read that out helpfully for the record. In other words, you did not say, “I want you to do this work by such and such”; you said, “When can it be done?”, and they provided you with the memo of 28 May 2012, which said that it could be done by 2025. Is that correct? It was not your deadline; it was when they said that the job could be completed by.

**Alex Neil:** They said that in their feed-in to the drafting of the national infrastructure plan in 2011. In 2012, I insisted that we had a specific plan for the stages in which it would be done. When you see annex D—I hope that you will, when the Government supplies it to you—you will see that, for each section, as well as giving the estimated completion date, more detailed information was provided. There are four strategic stages in completing such a project, particularly in this case, as we were starting from the start. Although we

had a manifesto commitment in 2007, very little work had been done on dualling the whole stretch. Work had been done on two or three sections but not a lot. Of course, hardly any work had been done for the previous 30 years, since 1979, by successive Governments of all colours. We were starting pretty well from scratch.

11:00

Let me take the section from Birnam to Ballinluig. The target date for that was 2024. The annex D graph showed me when the design and assessment would be completed for each stage; when the statutory process would be completed for each stage; when the procurement would be completed for each stage—my view was that some of the procurement was being allowed to take too long, but that is another issue; and, finally, how long the construction phase would be. It was not a case of putting a thumb in the air and saying, “We will compete this by 2024”; it was the result of a lot of intensive work by Transport Scotland, which involved looking at each of those four stages for each stage of the project.

**Fergus Ewing:** That is extremely helpful. The reason I asked the question is that, in the evidence that Transport Scotland officials gave to the committee on 14 June, they implied that, back when the deadline was set, it was aspirational. That is just not true.

**Alex Neil:** I read that. It is utter rubbish. They were not there—the people who gave evidence were not there. Frankly, if they had taken the time to check with me or, indeed, Ainslie McLaughlin, who was the main official advising me at the time, they would know—I am sure that Ainslie would confirm this—that it was not aspirational. A lot of work was done before the target date went into the plan. Before they could advise me that 2025 was a reasonable date by which we could do this financially and physically, they clearly had to do a lot of work to work that out, and they did. They did it very professionally. I said to them, “Let’s get it down on paper and agree the schedule for this so that we can measure progress.”

One of the things that may have happened is that, following the change in cabinet secretary, my successors have perhaps not tracked this as well as they could have. Being of the same vintage as you and the convener, I remember the Falklands and Jim Callaghan always pointing out that, when he was Prime Minister, he would go once a week to a globe or a map of the world to see where Britain’s navy was. One of the things that he was checking, as an old mariner himself, was that there were enough ships near the Falklands to prevent any invasion. Thatcher did not do that, and we know the history. Similarly, I used that as a lesson, and not just on this project. I wanted to

receive regular progress reports on all the major projects, so that I, as the minister in charge—I would take the rap—could make sure that they were on schedule. The starting point for that was agreeing a schedule. We agreed a schedule. I signed off the schedule.

**Fergus Ewing:** It is a shame that the fleet was so prematurely deprived of Alex Neil, its admiral, but—[*Laughter.*]

**Alex Neil:** You would be a good fireman, Fergus. [*Laughter.*]

**Fergus Ewing:** Well, yes. I will move swiftly on to the £14.7 billion. The second revelation that you have made again confounds the impression that Transport Scotland was intent to give, which was that this was all too difficult; that it was, perhaps, the politicians who had set an impossible task; and that Transport Scotland could not really be blamed for not having delivered it. You have said that the analysis in 2015 was that there was an unallocated amount in capital of £14.7 billion and that the estimates that were made at the time for dualling both the A9 and the A96 were broadly £6 billion, based on a figure of £30 million a mile. If you do the maths, you find that that was a conservative estimate. My point is that you are saying today that, in fact, there was masses of cash available and that, if 40 per cent of it was applied to the roads promises, they could and should have been delivered on time. Is that an adequate and correct summary?

Can you also give us a little more detail on that £14.7 billion if you are able to? What period did it cover and how was it worked out? Did officials provide you with that in a memo? To get to the truth of this, as is our task, we will need to see all those documents and many others. We can discuss that in due course, no doubt, but could you flesh out your evidence on the £14.7 billion a bit more?

**Alex Neil:** When we started to think about what we should put into the infrastructure investment plan that was due to be published by the end of 2011, I asked officials to give me the financial forecast. The financial forecast for capital programmes relates to our commitments and to our aspirations that have not had money committed to them, and it looks at the capital that is available.

By far the most important source of available capital is the mainstream capital programme, which, at that time, provided about £3.5 billion a year of the capital that the Government had as part of its core funding. As you know, we had developed other ways of funding capital programmes—the non-profit distributing, or NPD, model through the Scottish Futures Trust is a good example. In the infrastructure plan that we

published on 6 December 2011, we introduced the 5 per cent rule. The finance people in particular were keen on a bit of a quid pro quo for the level of commitment that was being made.

The vast bulk of capital was and, I think, still is funded through the mainstream programme, but there were programmes such as NPD. With those, unlike with the main programme, there had to be capital and interest repayments, and there were associated costs. We introduced a rule that the capital investment commitments that we made would have a ceiling, which would, in effect, be that of the mainstream capital programme, but, for the programmes involving repayments, the totality of the repayments for each department could not exceed 5 per cent of the capital budget of each department's departmental expenditure limit. For example, if the expenditure limit in roads was £1 billion, by definition, the capital repayment profile, which goes way out for years, could not be more than £50 million a year.

I asked officials to do a graph for me. I remember it very vividly. We knew that the mainstream programme was always subject to some volatility, particularly after the financial crash, but I asked them to do a graph to show me the point at which we would start to fall significantly below the 5 per cent. If you looked at the following year, 2012-13, you could see clearly that we were maxed out—we were very near the 5 per cent ceiling. As the years went on, however, because of the lack of longer-term commitments, by the time we got to about 2020, or even before that, we were not using any more than about 2 or 3 per cent. When you took it to 2025, it was practically zero. We looked at all that. In short, I double-checked that what we were planning was well within the capital programme.

The irony is that, if you look at the 2016 A9 investment plan that was published by Transport Scotland, which was circulated to the committee by SPICe, you can see a figure of just under £1.9 billion, which I assume is the estimate for the whole thing. Either way—£30 million a mile was a big number—in reality, ironically, had it been built on time, it would probably have cost only about two thirds of the £3 billion, and there would have been another £1 billion available for other projects. However, because we have stalled, delayed, put it on the back burner and betrayed a promise to the people of the Highlands and Islands and of Scotland—this is important for Scotland as well—when we eventually get to do it, it will probably cost up to £1 billion more than it need have done.

**Fergus Ewing:** I have a short final question. Mr Neil, why do you think that the A9 dualling project has fallen so very far behind schedule?

**Alex Neil:** I cannot be absolutely sure, because I no longer have responsibility for it. While I was in

the Cabinet, I do not remember the issue of a delay ever coming to the Cabinet, and I was in the Cabinet until May 2016. You were a minister as well, and at no time during that period was there any indication that there was a delay. It was not visible, because the construction works were not going to start until later anyway. The delay was presumably in the pre-construction work that had to be done, or maybe capital was reallocated to other projects. I do not know. That is why I think that you need the paperwork to get to the truth.

**Fergus Ewing:** We may need to ask your successors what they did—

**Alex Neil:** Absolutely.

**Fergus Ewing:** —and what Transport Scotland did or, perhaps more relevantly, did not do.

**Alex Neil:** It would be interesting to make sure. I have never been one for blaming officials; I always believe that the buck stops with the minister and that it is a weak minister who relies on criticism of the bureaucracy, as you are the person to whom they report. That is why I always insisted, with any project, on getting regular updates. If something was going wrong, I did not want to wait until that was on the front page of the *Daily Record* or *The Herald*; I wanted to know before anyone else, and I wanted to see it happening so that we could arrest any delay and move things on, if it was obvious that there was a delay. I suspect that, let us say, the foot was well and truly taken off the accelerator.

**Fergus Ewing:** Thank you very much.

**Foyso Choudhury (Lothian) (Lab):** It looks like we had more cabinet secretaries and ministers than work done on the project. I do not want to repeat what my colleagues have asked, but is there a possibility that we can get a map of all the promises that were made and which ones have been completed and not completed? Can we also get a map of how many cabinet secretaries and ministers we had during that period? It is difficult for people like us who are new to the committee. I am sure that it will be clear for us to see when the project was promised and how much money was spent on the inquiries rather than the work.

**Alex Neil:** I will make a suggestion about what you should do. Let me emphasise this: we can play a blame game, but I am not interested in a blame game, because that does not change anything. The reality is that this road should have been built.

The committee should have that important information for two reasons. First, it is to establish what went wrong and when it went wrong and to learn the lessons so that it does not go wrong again. The second reason is that the obvious solution is for the minister and the Government to

keep their promise from the First Minister, from the previous transport minister, Jenny Gilruth, and from the current transport minister and the cabinet secretary—the two of them—that there will be an announcement of a detailed schedule and plan for the completion of the project. I think that that was originally promised for this month—October—and the onus is now on those ministers to deliver that plan. You will be doing the current ministers a favour by trying to find out what went wrong so that they can learn the lessons and not make the same mistakes again.

I think that you need to do two things. Your starting point, if I may say so, and the methodology that I would employ is, first, to demand the paperwork. It is time that the committees of this Parliament exercised and used their teeth. Committees are supposed to be the second chamber of the Parliament, and you have the statutory right to demand that paperwork. My advice to you is to demand all of it, from 2011 until today. The second thing is to go through the paperwork, which should certainly give you clues and might spell out the point at which and the reasons why we have ended up in this mess, with only two sections completed. Then you should talk to the ministers, because it may well be that the delays happened under one or two of those ministers, rather than every minister. I honestly do not know, because I was not privy to any of it after I was reshuffled.

11:15

I absolutely think that that is the way to go about it. Get the paperwork, see where and when things went wrong and then ask the officials and the ministers who were there at the time. With all due respect to today's Transport Scotland officials, they were not there at the beginning, but some of them may have been there during the time when things went wrong. I do not know.

**Foyso Choudhury:** I would be interested to know which officials were involved. My point goes back to you, convener: we need a clear map of where everything went wrong and how much money was spent on the inquiries.

**The Convener:** We can consider that in our determination of the evidence that we have heard.

Marie McNair, who joins us online and who is substituting for David Torrance, has indicated that she has a question.

**Marie McNair (Clydebank and Milngavie) (SNP):** Good morning, Mr Neil. It is great to see you—thank you for your time. You will accept that a number of factors have impacted on the project over the past few years, and, obviously, there are the current economic challenges. There are challenges for infrastructure projects across

various countries, given inflation and so on. The Scottish Government has no ability to borrow to raise capital. If you were still in the Government, how would you seek to proceed in these circumstances? I would appreciate your wisdom.

**Alex Neil:** The current financial constraints were not the reason for the failure to deliver the programme because, clearly, the programme was meant to have been delivered by now, and, ironically, that would have helped with the financial constraints, given that it probably would have cost a third less than originally planned. Therefore, I do not see that as the reason for the delay. There may be other financial reasons that I do not know of, but it cannot be that specifically.

Going forward, ministers need to be imaginative. This is not just a Scottish problem. There is a big debate going on at the Tory party conference this morning on the high speed 2 railway line and capital projects of that significance, how they should be funded, what the priorities should be and all the rest of it. My view is that there has to be a definitive programme to complete the dualling of the A9 and the A96 within a reasonable period. In doing that, ministers have to make an honest assessment of the financial challenges in implementing such a construction programme. In looking at how to meet the financial challenges, they need to consider other and new ideas.

A huge opportunity was missed in the negotiations recently completed on the new fiscal framework. Frankly, I would not have signed it. It continues the problem that we have had, which is our total inability to borrow. Councils are able to borrow for capital programmes, but the Scottish Government cannot borrow significantly for them. Whoever signed that fiscal framework needs to get their act together. It was a complete sell-out of fundamental principles, and, after so many years of the previous fiscal framework, we should have learned the lesson and not signed up to a similar deal. The Scottish Government fell down on that one. However, we are where we are, and we cannot just wring our hands and do nothing.

Let me give you two or three examples of what I would do to fund this if I were the minister. First, I would work with the United Kingdom Government, particularly on how the money can be raised. The leader of the Scottish Tories, backed by the Secretary of State for Scotland, has said that he would like the A9 and the A96 to be dualled. They are also on record saying, rightly, that they want the A77 from Ayr to Stranraer to be dualled, and the secretary of state is on record saying that he wants the A75 from Stranraer to the border to be dualled. He is absolutely right, and, as I said, there are other programmes to consider, such as the A82. I would hold a discussion about that kind of ambitious programme, which is what Scotland



needs, over perhaps a 25-year period, as a priority, given what happened to the A9 and the A96, where expectations were set but not realised.

Let me give two or three examples. Some people in the City are advising the UK Government to use consol-type funding. That is borrowing, but it uses undated gilts. Those have been around since 1751—contrary to the rumours, I was not at their launch. Given that they are undated, the Government repays them as and when it can afford to do so. Sometimes, they can last for hundreds of years—literally. We should look at that as a possibility, particularly because, although interest rates are high at the moment—recoupment on gilts this morning is at over 5 per cent—by the time that you get to the construction stage and have to fund it, which, most optimistically, is probably at least two or three years down the line, interest rates will, hopefully, be back down to 2 or 3 per cent. The consol long-term bond is one idea. I would make it a bond for a package of measures to upgrade the road transport network in Scotland. If we are going to get out of the rut of low growth and low productivity, that is a prerequisite.

My other idea involves the A9 dualling, which covers roughly 100 miles. I know that Sir Edward Mountain will disagree with me on this but, as Churchill said over 100 years ago, landowners benefit enormously from a huge increase in the value of their land as a result of investment such as the dualling of a road. I think that a share of that additional value should come back to the taxpayer. Fifty per cent of the increase in value should come back to the taxpayer. The principle is called land value capture. Off the top of my head, I guess that there might be a million acres between Perth and Inverness, the value of which will go up significantly when that road is dualled. Landowners have not put a penny into that, other than as taxpayers like the rest of us. It is only fair that a share of the additional value comes back to the taxpayer.

Those are two ideas: the consols and some kind of land levy to get the taxpayers' share of the increase in land values resulting from public investment. They are not uncontroversial ideas, but they are reasonable ones.

**The Convener:** Marie McNair, do you want to follow up on that?

**Marie McNair:** No. In the interests of time, I will pass back to you.

**The Convener:** We come to Edward Mountain, whose land you just volunteered up, Mr Neil. I do not want him to stray into matters on which he has not necessarily given a declaration of interest to the committee, but I invite him, as our reporter

from the Net Zero, Energy and Transport Committee, to ask a question.

**Edward Mountain (Highlands and Islands)**

**(Con):** I have no declaration of interest to make on that. I do not own any of the land. As a highlander, however, I think that we would all benefit from the dualling of the A9. At the outset, convener, let me say that it is really delightful to see Mr Neil back in the Parliament and speaking up so eloquently for people in the Highlands and Islands. Sadly, that is often lacking in other areas of Government.

It is interesting to hear you stress the importance of manifesto commitments, Alex. They are something that, I believe, politicians stand for, are elected on and should stand to. My first question, therefore, is on Transport Scotland. You used the expression that you were going to “nail down” the advisers in Transport Scotland. That suggests that they might not have been very happy with being nailed down. When did they break the nails? Was it in your successor's time or beyond that?

**Alex Neil:** I do not know. They certainly did not do it in my time, I can tell you that. I remember one official, although I will not name names. There are exceptions in every walk of life but, having held four posts during my ministerial career, I have to say that the quality of officials was generally very good. I remember, however, when I initially brought in the officials to tell them that I wanted to prioritise the dualling of the A9 in the forthcoming infrastructure investment plan—one of the reasons that I gave for that was the number of people being killed on the A9, as well as the number of casualties and accidents—that one official said to me, “Mr Neil, this is not the most dangerous road in Scotland.” I replied, “It may not be the most dangerous road in Scotland. There may be other roads that are more dangerous based on the way that such information is measured, but the A9 has one unique advantage that no other road in Scotland has.” He looked at me blankly and said, “What's that?”, to which I replied, “None of the others is a manifesto commitment.”

**Edward Mountain:** That is good to hear. You remained in the Cabinet until 2016. The issue must have been discussed at Cabinet meetings, and you must have wanted to follow up on it, on behalf of the Highlands and Islands, to see where the project was going. Did you raise the matter between the time that you left your portfolio and when you left the Government in 2016?

**Alex Neil:** I raised it casually. I did not raise it formally because, frankly, I was busy with my own portfolio. I was designing the Scottish child payment, although it took five years for that to be implemented. I nevertheless tried to keep my ears open, and I certainly did not hear anything about delays. As far as I can see, from the evidence that

you have received so far, it is only fairly recently that delays have been admitted to. Why was no flag raised? Why was there no intimation of the delays?

Those are questions on which the committee can ask for paperwork. Were the Cabinet and the minister informed when it became obvious that there would be a delay? Were they informed of the reasons for the delay? Were they informed about how long the delay would be? Were alternative scenarios put to them to try to avoid the delay? I am not party to any of that information.

**Edward Mountain:** You mentioned that you think that the land acquisition could have been speeded up. I tend to agree with you. Compulsory purchase orders could have been issued relatively quickly and served at minimum cost. Why did that not happen as soon as you got them into the plan in 2011?

**Alex Neil:** It did. There was £18 million set aside immediately for anything that needed to be done and that could be done within a two-year period. The money would probably go partly towards funding external advice for Transport Scotland on the design and the issues with the road that it would need to investigate. I do not think that any of it was used as advance research—a ground assessment, say—but an assessment would be made. Some of the land was already in public ownership. All that work still had to be done. Some of it was done, or had certainly been started, by the time that I left.

That is why I wanted the schedule. Ministers can measure things if they know what the schedule is—a minister needs to know the schedule. If you do not know the schedule, you cannot manage it. That is why I insisted on having a schedule. At the same time—the convener confirmed or repeated what I said earlier—I did not say, “This is the date on which we are going to complete this, so now you tell me,” because, if you do that, you just get guff from people or something meaningless. That is why I deliberately framed the question by asking, “Can you, the experts from Transport Scotland and our civil service, please advise me of a realistic date when we can physically and financially dual the A9 and the A96?” The answers that I got back were that it could be done in 2025 and in 2030, respectively. In the case of the A9, we got down to detailed work very quickly, which included that schedule.

**Edward Mountain:** I did a bit of research before I came to the committee and, interestingly, I think that there were nine cabinet secretaries after you who were responsible for the matter, including one member of the Parliament who is at this table today. Under the connectivity remit, Mr Ewing, did you not have an input?

11:30

**Fergus Ewing:** No—that is not correct. I did not have responsibility for infrastructure.

**Edward Mountain:** Okay. There were nine cabinet secretaries and 11 ministers, I think, which is quite a trawl. If each one had managed to achieve 6 miles of dualling, they could have achieved an awful amount.

Mr Neil, when you left office and, in your words, you had your foot on the accelerator, would you have expected something to happen in the next two years?

**Alex Neil:** A lot of what was due to happen by 2016 was behind-the-scenes stuff. Apart from the Luncarty to Birnam section, which was completed in 2021, you would not have known about it, because the other construction works were not due to start until much later. The completion date was 2025, but the start date for construction is the final phase. As a back bencher, I thought that progress was slow. Informally, I spoke to a number of those nine ministers, but nobody at any stage told me that there was a strategic delay in the programme. I do not know whether the ministers knew that there was a strategic delay.

**Edward Mountain:** I kind of hoped—

**The Convener:** You can have a final question, Mr Mountain.

**Edward Mountain:** It now appears that we will have to do this at a rush and get it done sooner rather than later, which is the right thing to do. Apart from the cost implications of doing it in a rush—the constructors know that you are doing it in a rush and can charge whatever they think is reasonable—could you give me an assessment of the other implications for connectivity to the Highlands? It is going to slow us down, isn't it?

**Alex Neil:** Well, obviously, if the job is not done, you do not get the benefits. I see that some people are suggesting that it could take until 2050, which would be totally unacceptable. Any new plan must look at what can be done in the next five or six years. If the preparatory work has been done, which is the starting point, have they done those four phases? Have they done all the statutory processes, for example, or are they still all to be initiated? How many have been initiated? When will they be completed?

There needs to be a realistic assessment and an updated schedule of the type that was in annex D that I received from Mr Anderson of Transport Scotland on 28 May 2012. You now need an updated schedule from the Cabinet Secretary for Transport, Net Zero and Just Transition, telling you, for each of the four phases, when each stage will start, when it will be completed and the estimated cost. Obviously, there has to be a look

at imaginative ways to fund it. I read the evidence from Mr Barn of the Civil Engineering Contractors Association, who made a lot of valid points about what procurement method would be most effective. I am not an engineer, so I am not in a position to advise on that, but somebody like Mr Barn should be listened to by the Government.

**The Convener:** I have one final question that draws together a couple of points that I heard. It is a pity that there was never an annex D for the HS2 project which, I suspect, did not benefit from your foresight in capital expenditure planning.

**Alex Neil:** I do not think there is even an annex Z for that.

**The Convener:** You have identified some suggestions for how you feel funding for the project might be realised. In response to Mr Golden, who was looking at the climate change impact requirements that had to be assessed at the time, you talked about the fact that it is not roads but the products that drive on roads that are, potentially, the leading instigators of climate damage. If there are funding ways to do it, I am interested to know whether, in your mind, the inclusion of Greens in the Government who may well just be opposed to the principle of the road, irrespective of how fuel-efficient the vehicles on it are, is one of the key obstacles that prevents the Government that made the manifesto commitment from proceeding, or is there something else? In other words, is that one of the unspoken obstacles that, irrespective of whether a funding mechanism is identified, is potentially halting progress on that road?

**Alex Neil:** It should not be. I will need to double-check, but my understanding of the Bute house agreement is that those road projects were excluded from the agreement. In other words, there was a recognition that the Greens would oppose anything like this but that its members would have no responsibility for it in the Government, thank God, and they would not be able to veto progress on the projects. If it is as a result of Green influence, that means, quite frankly, that the situation is even worse. To be honest, if we stick to the word and spirit of the agreement, my understanding is that the A9 and A96 projects are excluded when it comes to the Greens' support, although Mr Ewing will know more about that than I do.

**Fergus Ewing:** The A9 dualling between Perth and Inverness is entirely excluded. The A96 section from Inverness and Smithton to Auldearn, east of Nairn, and the Nairn bypass are excluded, but the residue of the undualled A96 is not excluded and, indeed, that is subject to a review, the results of which are promised to be announced by the Government apparently fairly soon. What

you say is nearly correct, but not absolutely accurate.

**Alex Neil:** In my view, I would not allow the Greens to put a veto on that. It is about Scotland's economic future. The north-east clearly faces major challenges. Although it is a much richer area than many other parts of Scotland, clearly, it has to diversify its economy, because it is already in the transition away from oil and gas. That will take a number of decades to be completed, but the north-east economy cannot do without the dualling of the A96 between Aberdeen and Inverness if it is to achieve the growth rate of which it is capable. I am talking about a sustainable growth rate. I absolutely agree that the impact on climate change policies has to be part of the assessment, but it should be part of the assessment about how you implement the project, not whether you do it.

**The Convener:** Thank you very much. That was all characteristically candid. I am reminded of my old friend and colleague Sir Albert McQuarrie, who contemplated a return to public life and elected office at the age of 96. You could offer the country a lot more yet, Mr Neil, with at least three decades' advantage on him.

That was very helpful. You have not only pointed the committee in directions that it might wish to explore further but identified ways in which we can try to take forward the inquiry. I think that you made the point that looking forward is actually the committee's objective in realising the aims of the petition.

**Alex Neil:** Follow the advice of my old school, Ayr academy, the motto of which was "Respice Prospice". Unfortunately, Ayr academy was all respice and nae prospice. I emphasise to the committee that prospice is the name of the game.

**The Convener:** On which note, I will suspend the meeting briefly. Thank you very much.

11:38

*Meeting suspended.*

11:43

*On resuming—*

**The Convener:** Welcome back. I should have concluded the previous evidence session by asking members whether they agree to reflect on that evidence and come to a determination on how we might want to proceed at a subsequent meeting. Do we agree to do so?

**Members indicated agreement.**

## Continued Petitions

### Community Participation Requests (Appeal Process) (PE1902)

11:43

**The Convener:** Under agenda item 4, we will consider continued petitions. The first such petition is PE1902, on an appeal process for community participation requests. Our parliamentary colleague Edward Mountain has stayed with us to assist in the consideration of the petition, on which he will make a representation. We have also received a submission from Rhoda Grant, to which I will refer in a moment.

The petition, which was lodged by Maria Aitken on behalf of Caithness Health Action Team, calls on the Scottish Parliament to urge the Scottish Government to allow an appeal process for community participation requests under the Community Empowerment (Scotland) Act 2015.

We previously considered the petition on 18 January, when the committee agreed to write to the Scottish Government, and we have since received a response from the Minister for Community Wealth and Public Finance. The minister stated that the Scottish Community Development Centre is

“giving careful consideration to when an appeal could be made”,

how the process could be

“fair, open and transparent, and who would be best placed to manage that process.”

As I said, we have received a written submission from Rhoda Grant, who is unable to attend the meeting this morning. She has made the case for CHAT to be accepted by NHS Highland as a community organisation under the participation request process, and she has asked that the committee put the matter to NHS Highland. She has also requested that the committee keep the petition open until the Scottish Community Development Centre has published its proposals on an appeal process.

Before I ask committee members how they would like to proceed, I ask Edward Mountain whether he has any suggestions.

11:45

**Edward Mountain:** The Caithness Health Action Team has been around for a long time and has been instrumental in helping to resolve issues of inclusion, in relation to health concerns, for people in the Highlands. It is a strong advocate. I have supported Rhoda Grant and the Caithness

Health Action Team in delivering their request to NHS Highland. There is a very simple answer, as Rhoda Grant has suggested, which is for NHS Highland to accept CHAT as a community organisation under the process.

I urge the committee to keep the petition open and to push on NHS Highland's door to see whether it will include CHAT, because, by excluding it, NHS Highland is doing itself and Caithness no good at all.

**The Convener:** I am tempted to suggest that we keep the petition open and write to NHS Highland, as Rhoda Grant has suggested, seeking the inclusion of CHAT in its community participation representation. There is also a material basis for us to wait for the Scottish Community Development Centre to publish its proposal, so that we can be satisfied that progress will be made on those two fronts.

Are there any other suggestions, or are we content?

**Fergus Ewing:** I am absolutely content with that. However, I want to add that, on 18 January, there was agreement. I spoke—as did Alexander Stewart, the convener and Rhoda Grant—and asked for the minister to be specific and say when we would get a decision. That was 18 January, but here we are—almost another year has passed—and we now know that nothing will happen until the early part of next year, when the report from the SCDC will be available. I will not be holding my breath about the content of that report. Without being too critical, I do not expect a great deal from it. I am not sure that it is even necessary.

Be that as it may, however, the minister fails to say when a decision will be taken after the SCDC report has been issued. Therefore, we are none the wiser about when the minister will get around to doing something. I put that on the record in the vain hope that, when we ask a Scottish Government minister to give us the courtesy of a reply on something so basic as timing, we do not just see things kicked into the long grass in perpetuity, particularly in these days of rewilding when the grass is very long.

**The Convener:** That is duly noted, Mr Ewing.

Do we agree to keep the petition open on the basis that has been suggested?

**Members indicated agreement.**

### Strategic Lawsuits against Public Participation (PE1975)

**The Convener:** Our next petition, PE1975, which was lodged by Roger Mullin, calls on the Scottish Parliament to urge the Scottish Government to review and amend the law to

prevent the use of strategic lawsuits against public participation, which have the unfortunate acronym of SLAPPs.

We previously considered the petition at our meeting on 18 January, when the committee agreed to write to the Scottish Law Commission, the Law Society of Scotland, the National Union of Journalists, the Scottish Newspaper Society and the Scottish Government.

The Scottish Law Commission has confirmed that it does not have any current work in its programme of law reform that is relevant to the petition.

The Minister for Community Safety's written submission noted that, although defamation is not the only type of proceeding that is used for this purpose, it

"is the most common route to silence or intimidate."

The submission details enhanced legal protections that have been brought about by the Defamation and Malicious Publication (Scotland) Act 2021, particularly the ability for unfounded proceedings to be dismissed at an early procedural hearing in relevant circumstances.

The Law Society of Scotland points out that, between 2013 and 2021, when the threshold to bring defamation action was lower in Scotland than it was in England and Wales, there was not a significant increase in the number of cases brought in Scotland. It highlights work that is being undertaken by the Council of Europe to develop a draft recommendation on SLAPPs, with the working group concluding its work by December 2023.

The National Union of Journalists states that threats of legal action often act as an effective deterrent and go unreported, which means that the true scale of the issue "cannot easily be captured." The NUJ argues that the statutory definition of SLAPPs must be broad in order to cover the wide range of tactics deployed.

The anti-SLAPP research hub's written submission points to the UK Government's consultation, which observed that protection through a serious harm test or public interest defence in defamation cases comes too late in proceedings to deter abusive litigation.

The petitioner's written submission describes the Scottish Government's response as "complacent" and states that

"SLAPPs cannot be judged solely on the basis of those cases that come to court."

His most recent submission highlights some of the on-going work that is being done to increase engagement on the call for Scottish anti-SLAPP legislation.

After that rather extended summary, do members have any comments or suggestions for action?

**Fergus Ewing:** We should take evidence from the petitioner, the anti-SLAPP research hub, the Law Society of Scotland and the Minister for Victims and Community Safety. In addition, we should hear from Mr Graeme Johnston, who has provided a detailed, forensic and closely argued submission. I make that suggestion because, from what the National Union of Journalists, Mr Johnston, the anti-SLAPP research hub and others have said, it appears that Scotland is at risk of becoming the jurisdiction of choice for people such as oligarchs to abuse the court system, throw their weight around and, by taking SLAPP actions, prevent freedom of speech. Surely, freedom of speech is something that we are here to preserve and fight for.

In particular, I was struck by the point that high-profile SLAPP cases are simply the tip of the iceberg. The NUJ submission states that they

"do not reflect the volume of threatening letters and interference that takes place pre-publication."

In other words, we have no idea how many threats of legal action are made that we never hear about because the person from, for example, a small publisher or small newspaper thinks, "I havenae got the money to take on this guy," so that is the end of it—David, no sling, no action; another victory chalked up to Goliath.

I have absolutely no doubt that we need to get the evidence and to learn more from the various points that have been challenged in relation to the Government's response, which—I am sorry to say—I found a bit on the complacent side.

**The Convener:** The petitioner, Roger Mullin, is with us in the public gallery today. We will seek to take evidence from him, the anti-SLAPP research hub, the Law Society of Scotland and the Minister for Victims and Community Safety at future meetings. Are there any other organisations that we would like to include? Fergus Ewing has suggested that we speak to Mr Graeme Johnston, too.

Are we content to proceed on that basis?

**Members indicated agreement.**

**The Convener:** We will keep the petition open and seek to hold an evidence session at a subsequent committee meeting, as agreed.

### **Child Protection (Public Bodies) (PE1979)**

**The Convener:** Our next petition is PE1979, regarding the establishment of an independent inquiry and an independent national whistleblowing officer to investigate concerns

about the alleged mishandling of child safeguarding inquiries by public bodies. The petition has been lodged by Neil McLennan, Christine Scott, Alison Dickie and Bill Cook. I see that the petitioners are with us in the public gallery. A warm welcome to you. You have had quite an extended morning before we got to your petition.

The petition calls on the Scottish Parliament to urge the Scottish Government to launch an independent inquiry to examine concerns that allegations about child protection, child abuse, safeguarding and children's rights have been mishandled by public bodies, including local authorities and the General Teaching Council for Scotland, and concerns that there are gaps in the Scottish child abuse inquiry and to establish an independent national whistleblowing officer for education and children's services in Scotland to handle such inquiries.

We considered this petition at our meeting on 8 February, at which point we agreed to seek further information from a number of relevant organisations. We have subsequently received responses from the General Teaching Council for Scotland, the Children and Young People's Commissioner Scotland, the Scottish Social Services Council, the Educational Institute of Scotland and the Convention of Scottish Local Authorities. Copies of the responses are in the papers for today's meeting.

The GTCS has provided an overview of its fitness to teach process and identified national education reform and the Scottish child abuse inquiry as opportunities for driving improvement on the roles and responsibilities in child protection.

The responses from the Scottish Social Services Council, the EIS and COSLA suggest that the existing guidance and processes for child protection are sufficient, with both the EIS and the SSSC hesitant about the need for an independent national whistleblowing officer for education and children's services.

In contrast, the Children and Young People's Commissioner Scotland response notes that it has identified

"a number of gaps in the national guidance and a need for stronger accountability mechanisms."

Its response suggests that there would be merit in exploring the creation of a national whistleblowing officer, perhaps in a similar format to the independent national whistleblowing officer for the national health service.

The committee has received three submissions from the petitioners that reflect on our previous consideration of the petition and comment on the content of responses that we have otherwise received.

Finally, members of the committee and I have received email correspondence from a number of individuals seeking to make submissions to the committee or to give evidence in support of the petition, but only if they can do so under conditions of confidentiality, which the committee can obviously agree to.

Do members have any comments or suggestions for action?

**Fergus Ewing:** I will read back from the petitioners' response of 3 March:

"We thought it might be useful ... to take you through several actual case studies highlighted by whistleblowers and victims."

They also said that it was their hope that

"some whistleblowers will be prepared to speak directly to the committee".

These are very sensitive matters, as we know, so I suggest that it would be appropriate to invite the petitioners and whistleblowers to a round-table discussion on the issues raised by the petition. If that option is favoured, the committee might want to delegate authority to the convener to work with the clerks on the most appropriate format for that discussion to take place. We are here to make sure that people have a right to be heard. They have not been heard yet, so that would be a way in which we could give them that right.

**The Convener:** Colleagues, that might mean that you would be devolving to me the ability to agree that that session might be private in order to protect and respect the anonymity of those individuals who might feel that they want to contribute, and to work with the clerks to ensure that we can identify a format that the individuals who might want to contribute feel that they could support and feel confident in. Do members agree to keep the petition open and to next consider it at a round-table discussion where we will hear direct evidence, in a format that is to be agreed, from the people affected.

**Members indicated agreement.**

**The Convener:** I hope that that meets the immediate hopes and expectations of the petitioners.

### **Child Arrangement Orders (PE1984)**

**The Convener:** PE1984, on the introduction of the C100 form for child arrangement orders in Scotland, was lodged by Amy Stevenson. It calls on the Scottish Parliament to urge the Scottish Government to reduce the financial barriers that prevent parents from having contact with their children by introducing a Scottish equivalent to the C100 form, with a fixed fee for making applications for child residence or child contact orders.

We previously considered the petition on 22 February, when we agreed to write to the Scottish Government, the Scottish Law Commission, the Law Society of Scotland, the Family Law Association, Relationships Scotland, the Scottish Legal Aid Board, the Scottish Courts and Tribunals Service and the family law committee of the Scottish Civil Justice Council.

The Scottish Government response sets out its view that

“it is better if separating parents can agree about what is best for their child.”

The response includes information on existing resources and services intended to assist separating parents to resolve disputes and make arrangements outside of court.

The Scottish Courts and Tribunals Service response highlights the “potential impacts” of the introduction of a form-based approach on the court service. A number of responses that we received also noted that the introduction of a C100-type form might encourage people to go straight to court without first considering alternative options. While fixed fees might reduce some costs, the form could result in increased costs if the individual required legal representation throughout the process.

The Scottish Legal Aid Board suggested that a change in the way cases are initiated would require

“a wider overhaul of the court rules”.

The Scottish Civil Justice Council and Relationships Scotland suggested a review of what happens currently, the latter suggesting that a starting point might be

“a review of the current process ... for making applications for child contact or residence orders”.

Do members have any comments or suggestions for action?

12:00

**Maurice Golden:** We should write to the Scottish Government to seek an update on the pilot scheme for mandatory alternative dispute resolution meetings and ask whether it has any plans to review the present system for initiating court action in relation to child contact and residence orders.

**The Convener:** Are colleagues minded to accept that suggestion?

*Members indicated agreement.*

### **Drug Testing Kits (PE1986)**

**The Convener:** PE1986 was lodged by Andy Paterson on behalf of the help not harm campaign,

and it calls on the Scottish Parliament to urge the Scottish Government to provide free testing kits for drugs in public spaces such as local pharmacies, libraries and university buildings. We last considered it on 22 February, when we agreed to write to the Scottish Government, which, in its response, highlighted three forthcoming reports from the drug checking research project that all focus on the use of self-testing kits. It also notes that an implementation group has been established and that implementing drug checking will be a priority for the group. No specific timeline is available, as that is dependent on the Home Office and its licensing application process. Two of the applications were due to be submitted by the end of April and a third before the summer. Do members have any comments or suggestions?

I suggest that we write to the Scottish Government to request a summary of the key findings and recommendations of the drug checking research project’s three reports on the use of self-testing kits and to ask it to indicate whether the findings have altered the Scottish Government’s position on the free provision of such kits in public spaces.

**Fergus Ewing:** I support that recommendation. We might also wish to seek from the Scottish Government an update on what testing and training are provided on the use of naloxone. Many moons ago, between 2007 and 2011, when I was the drugs minister, we promoted the use of naloxone by, for example, police officers. If applied, naloxone can reverse the effects of opioids, and, in certain circumstances, it can save lives. It is not without its controversies, but that measure was introduced years ago. I raise it because, in relation to drug testing, it has the potential to save lives and is very valuable.

It would be helpful to get a fairly comprehensive account from the Scottish Government about how naloxone has been rolled out, whether the police are now using it, as was wished to be the case, whether there are any barriers, and what is being done with it specifically. We are all alarmed and concerned at the number of drug deaths in Scotland, and, in some circumstances, naloxone can save lives.

**The Convener:** Are members content to add that to our list of actions?

*Members indicated agreement.*

## New Petitions

### National Dashcam Safety Portal (PE2013)

12:03

**The Convener:** Agenda item 5 is consideration of new petitions. In case people joining us to follow our proceedings this morning have a petition that we are considering I will let them know, as I always do, that, ahead of each petition's first consideration, we invite the Scottish Government to comment on it and we seek comment from the Scottish Parliament's independent research unit, SPICe.

The first new petition is PE2013, which is on the implementation of a national dashcam safety portal and was lodged by Neil McNamara. It calls on the Scottish Parliament to urge the Scottish Government to introduce without delay a national dashcam safety portal, as has already been agreed by Police Scotland.

The SPICe briefing explains that a national dashcam safety portal would provide an online channel for members of the public to submit directly to Police Scotland evidence of potential road traffic offences that is recorded on dashcams, helmet cameras and mobile phones.

The Scottish Government's response to the petition highlights its recent programme for government commitment on the issue. The programme states that Police Scotland will seek to build on the Scottish Government's investment to make it easier to submit digital evidence to report poor road user behaviour. Dundee has piloted the digital evidence-sharing capability programme, or DESC, which allows a request for digital evidence to be sent to a member of the public.

Do members have any comments or suggestions for action?

**Fergus Ewing:** Can we write to Police Scotland to ask how it intends to fund improvements to the ways in which digital evidence is submitted and, in particular, where the funding will come from to implement the digital evidence-sharing capability programme?

I wonder whether I might make an additional suggestion. My understanding is that dashcam technology is available throughout police forces in Wales and England. Scotland therefore appears to be the laggard. Reference has been made to the Welsh experience and the technology company Nextbase, which apparently provides some services free of charge, whereas the Scottish Government and Police Scotland tend to labour the costs of this. Plainly, there is a slight contradiction in the evidence that is before us.

Can we write to the UK Government or to police forces in England and Wales or their representatives to try to elicit information on their experience? They have implemented the technology already. How much did it cost them, what have the benefits been and what has been their experience and evaluation of it? It seems to me that, since they have done it, we should learn from them.

**The Convener:** I invite the clerks to give some consideration as to whom we might write in order to fulfil that objective. I am quite content with the suggestion.

**Foyso Choudhury:** Data protection and privacy could be affected as well. We see quite a lot of stuff online. People post footage of cyclists and people in private cars. What measures will the police or the law take to protect them?

**The Convener:** We could add that question to our inquiry to those who have implemented the technology elsewhere, in order to learn how they have overcome those particular considerations. That might help inform anything that might happen in Scotland. We will do it that way. Are there any other suggestions? No. Are we therefore content to proceed on that basis?

*Members indicated agreement.*

**The Convener:** I should say that I have just been advised that Marie McNair was not able to join us after Alex Neil's evidence, so she has not been with us for consideration of the other petitions.

### Injured Soldiers and Veterans (PE2032)

**The Convener:** PE2032 seeks to improve the support that is available to injured soldiers and veterans in Scotland and was lodged by James Brebner. It calls on the Scottish Parliament to urge the Scottish Government to improve the support that is provided by public bodies to injured soldiers and veterans in Scotland by ensuring that there are clear pathways for their injuries to be treated by appropriate consultants; establishing a veterans trauma network, similar to that which operates in England and Wales; ensuring all correspondence raising concerns or making complaints about their treatment from veterans to the Scottish Government is acknowledged and responded to; and reviewing and seeking to update the way in which the Scottish Public Services Ombudsman handles complaints from veterans about the health service.

Mr Brebner tells us that he was injured in the Falklands while serving with the Parachute Regiment, which has left him with severe leg pain.

In responding to the petition, the Scottish Government states that it is working with



colleagues across the NHS and the veterans community to develop a Scottish veterans treatment pathway and that it has also been working with the Veterans Trauma Network in England to understand how a similar service might be applied in Scotland. The response also notes that all correspondence that is received by the Scottish Government is logged centrally, with the aim of providing a reply within 20 days of receipt, as well as highlighting the point that it would be a matter for the Scottish Public Services Ombudsman to comment on its own process and any potential review of how it handles complaints from veterans about the health service.

We have also received a submission from the petitioner commenting on the Scottish Government's response, highlighting his continued concerns about the delay in establishing a trauma network and sharing his experience of trying to navigate the processes.

We have a very interesting petition before us. Do members have any comments or suggestions for action?

**Maurice Golden:** We should write to Veterans Scotland, the Soldiers, Sailors, Airmen and Families Association—SSAFA, the armed forces charity—and the Scottish Public Services Ombudsman to seek their views on the action that is called for in the petition. It might be useful—I am relaxed about the point at which this should happen—to write to the convener of the cross-party group on the armed forces and veterans community to seek its network's views on support for injured soldiers and veterans in Scotland.

**The Convener:** Yes. I am happy to write to the cross-party group. We might also write to the armed forces personnel and veterans health joint group, which is a separate body, seeking similar information.

**Maurice Golden:** I should mention that I am the convener of the cross-party group on the armed forces and veterans community.

**The Convener:** Are you? You can write to yourself on that basis and save the clerks the trouble. [*Laughter.*] Nonetheless, we will probably put down something more formal by way of communication. The Government has set an ambition of 20 days for the time that it takes to reply to letters. To borrow Mr Neil's expression, there must be a metric that we can call on to see whether that is happening. We might ask the Scottish Government whether it is able to confirm the percentage of letters that were replied to within 20 days. Are we agreed on that basket of actions?

**Members** *indicated agreement.*

**The Convener:** I say thank you very much to Mr Brebner. We will take forward the objectives of the

petition and, I hope, consider it again in early course when we have responses from those to whom we are writing.

### **Disposable Vapes (PE2033)**

**The Convener:** PE2033, on introducing a full ban on disposable vapes, has been lodged by Jordon Anderson, a name with which some of you might be familiar from other petitions that we have considered.

The petition calls on the Scottish Government to legislate for a full or partial ban on disposable vapes in Scotland and to recognise the dangers that the devices pose to the environment and the health of young people. Jordon highlights research on the number of single-use vapes that are discarded each year and the damage that could be caused to the environment as a result. He is also concerned that not enough research is available on the health aspects of using the devices, particularly, though not exclusively, for young people.

In July, the Scottish Government provided a response to the petition, noting a range of steps related to the marketing, promotion and sale of vaping products that will be considered as part of the process of refreshing the tobacco action plan, which is due to be published later this year. The response also refers to the recent Zero Waste Scotland report, which proposes a range of policy options intended to address concerns about the environmental impact of the single-use vapes that we see lying around our communities.

We have received two submissions from the petitioner, and they further detail his concerns about the increasing number of young people regularly using vapes and urge the Scottish Government to act on the policy options put forward by Zero Waste Scotland. The petitioner has also highlighted work carried out by the Scottish Youth Parliament to gather views on the impacts of vaping from young people across Scotland. Members will also be aware that, since the Scottish Government's initial response, the new programme for government includes a commitment to consult on a proposal to ban the sale of single-use vapes.

Do members have any comments or suggestions for action?

**Maurice Golden:** The petition is interesting. In considering its proposal for a full ban on disposable vapes, the committee will probably focus on the environmental impacts; after all, a ban based on a health angle would, presumably, include all vapes, if that was the reason for it.

Nonetheless, we need more evidence, so we should write to Action on Smoking and Health

Scotland, Forest and the UK Vaping Industry Association. Perhaps the clerks can identify major producers of vapes, too. I believe that the UK Vaping Industry Association does not represent vape manufacturers in the tobacco industry, so there might be scope for a slightly wider stakeholder response.

It would also be worth while asking the Scottish Government when it expects to launch its consultation on the proposal to ban the sale of single-use vapes and what consideration it has given to ASH Scotland's suggestion that e-cigarettes be made available on prescription only to those who wish to use them as an aid to smoking cessation.

**The Convener:** In my introduction, I noted that the Scottish Youth Parliament had undertaken some work on that. Links to information on the outcome of that work are in the papers, so we have access to that.

**Maurice Golden:** The petitioner referred to the health impact on young people. Can we establish whether there is data on the prevalence of young people using vapes and where we might find that information?

**The Convener:** We can see whether SPICe can undertake that work. I would also like us, if we can find the information, to establish whether there is any clinical evidence on the consequences of vaping. Clearly, ASH is wholly funded by the Scottish Government, so it will not disagree with the Scottish Government's proposals. It is not that I wish to—well, I suppose that I do, but I would just like something that is a little bit independent of ASH as we try to identify something factual on these matters, instead of our just getting information from lobby organisations wholly funded by Government.

12:15

**Foyso Choudhury:** Is the Scottish Government doing anything to protect the under-18s? The vaping industry is targeting youngsters, as well as non-smokers, with all these flavours, but I do not know whether the Government is doing anything about that.

You are right, convener—we need to find somebody else or some other organisations, because ASH will just agree with the Scottish Government. There might well be other organisations; indeed, we could have a round-table discussion with community organisations, too.

**Maurice Golden:** We should find out—perhaps from COSLA—how trading standards enforces the ban on under-18s accessing vapes and whether

that has been successful. We should also ask about illegal sales of vapes.

**The Convener:** There is, it seems to me, a slight contradiction in ASH's position. ASH is suggesting that e-cigarettes be made available on prescription only to people who wish to use them as an aid to smoking cessation, but if that were to come about, it could, indirectly, encourage young people to start smoking in the first instance in order to get access to vaping, instead of vaping being an alternative to smoking in the first place. The proposal could almost be counterproductive.

I am familiar with the introduction of vaping at an earlier stage in public life and the feeling that it was very much one of the tools that might be available to help with smoking cessation. Clearly, though, vaping has grown exponentially since then, but I do not think that we should be judgmental about that in itself. We should want to understand what evidence, including any emerging evidence, there might be of material harm, and SPICe might be able to identify where such research is being carried out. I think that that would be helpful.

Do members agree with that approach?

**Members indicated agreement.**

### Highly Protected Marine Areas (PE2034)

**The Convener:** PE2034, on stopping the current proposals for highly protected marine areas in Scotland, has been lodged by Stuart Chirside and calls on the Scottish Parliament to urge the Scottish Government to halt its current proposals for highly protected marine areas and to bring forward new proposals that take account of sustainable fishing methods.

Events have slightly overtaken the petition, as we know. It was lodged on 20 June, and as members will be aware, the Cabinet Secretary for Transport, Net Zero and Just Transition gave a statement to Parliament on 29 June, confirming that the Scottish Government would not be progressing with the proposals. As noted in both the SPICe briefing and the Scottish Government response, the cabinet secretary has committed to providing the Parliament with an update on the Government's next steps on the issue.

**Fergus Ewing:** I note the cabinet secretary's response, which is brief. What it does not say is that, although the statement was made to the Scottish Parliament on 29 June that the proposals would not be going ahead, one of the Green MSPs said shortly afterwards that the Scottish Government was

"committed to bringing forward these proposals",

so what was in the statement was immediately contradicted in the press. Since then, the cabinet

secretary has said that she will bring forward other measures.

The industry itself is highly sceptical. The Scottish Fishermen's Federation has talked about the measures being brought back in by the back door, and when I speak to fishing representatives in Clyde, Shetland, the Western Isles and elsewhere, as well as the SFF, I hear grave concern. Instead of closing the petition now—the issues have not really gone away, which is the point that I am making—could we write to the Scottish Government to seek an update on its alternative plans to enhance the protection of the marine environment and whether they will include HPMAAs? That appears to be the case, even though such a move appears to have been ruled out.

In addition, could we specifically request the Scottish Government to tell us what engagement it is having with Duncan Macinnes and the Western Isles Fishermen's Association, with Elaine Whyte and her colleagues in Clyde and with all the bodies that represent inshore fisheries? They have tremendous knowledge and are doing tremendous things, but they have just been completely skated over.

Finally, 37 per cent of our seas are already designated as marine protected areas, but there has been no mention by the Scottish Government whether there should be a review of the existing designations of MPAs. It has always seemed to me—as a logician, I would hope—that before you embark on a series of brand-new measures, you should work out how effective or otherwise the existing measures have been as well as the economic impacts. As a former fisheries minister, I know that the impacts issue is highly controversial, because the fishermen feel that they have never been properly assessed and are repeatedly underestimated. We need look only at the number of vessels closing—we are losing vessels all over Scotland. It is a dire situation.

I am sorry—perhaps I have gone on too long, but I feel that we should keep the petition open and ask in writing for a lot of detail. Indeed, I am pretty sure that that is what the petitioner and many others would want us to do.

**Foysoyl Choudhury:** We should certainly ask for a breakdown of what other actions are planned.

**The Convener:** We might even commend to the Government the evidence—or, I should say, the discussion—at this morning's SPICe briefing, where we heard from Dr Andy Williamson, who said that this policy area might very well benefit from the input of an informed citizens panel made up of those who would be affected. The work of such a panel would underpin any ministerial consideration of how to proceed with an issue on

which there is generally public understanding—though not for the approach that had been previously advocated—and as a result, there might be much more informed community buy-in to any proposals that might be brought forward.

Are we content to proceed on that basis?

**Members indicated agreement.**

### **People with Hypermobile Ehlers-Danlos Syndrome and Hypermobility Spectrum Disorders (PE2038)**

**The Convener:** Our final new petition is PE2038, which has been lodged by Ehlers-Danlos Support UK and asks that suitable NHS services be commissioned for people with hypermobile Ehlers-Danlos syndrome, or HEDS, and hypermobility spectrum disorders, or HSD.

The SPICe briefing explains that Ehlers-Danlos syndromes are a group of rare inherited conditions that affect connective tissues in the body and that there are different types of EDS, including hypermobile EDS. The briefing also outlines other hypermobility spectrum disorders and notes that guidance on and guidelines for managing EDS have not been straightforward, due to some views that the evidence base is insufficient and varied opinions on the best way of managing the conditions.

The Scottish Government has outlined that diagnosis and patient care are provided by local and regional rheumatology services with the input of other specialities. Its submission highlights the Scottish rare disease action plan and states that the actions in the plan will address issues around the lack of signposting, referral pathways and overall care co-ordination, including for those living with HEDS and hypermobility spectrum disorders. The petitioner's written submission disputes the categorisation of HEDS and HSD as rare, stating low diagnosis of the issue and saying that four out of five people to whom it has spoken have not been diagnosed.

The submission also refers to a bid made in 2018 by Professor Stuart Ralston for a specialist centre that was supported by consultants, therapists and patients but not by the Scottish Society for Rheumatology. The petitioner highlights concern about access to services through rheumatology, stating its understanding that rheumatologists have been directed not to see people with non-inflammatory conditions.

In light of the submissions that we have received in addition to that from the petitioning organisation, do colleagues have any suggestions for action? If not, I suggest that we write to the national services division to ask whether it remains committed to producing a paper highlighting the

issues and service gaps that people with EDS and HSD encounter; why the proposal in 2018 by Professor Stuart Ralston for a specialist EDS centre was rejected; and whether it has monitored the delivery of its commitment to encourage regional expertise and services in place of a specialist centre. We might also write to the Government to ask how it intends to engage with people with HEDS and HSD in taking forward actions under the rare disease action plan, either individually or through Ehlers-Danlos Support UK.

Are members content to proceed on that basis?

**Members** *indicated agreement.*

**The Convener:** On that note, we move into private session. That concludes our consideration of petitions today, and we will meet again to consider fresh petitions on Wednesday 25 October.

12:26

*Meeting continued in private until 12:31.*

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

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