



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Citizen Participation and Public Petitions Committee

Wednesday 25 September 2024

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

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

Wednesday 25 September 2024

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
CONTINUED PETITIONS	2
Taxi Trade (PE1856)	2
Looked-after Young People (Aftercare) (PE1958)	3
Royal Conservatoire of Scotland (Funded Places for Scottish Ballet Dancers) (PE1982)	6
Braille Food Labelling (PE1997).....	8
Forestry and Land Scotland (Car Parking Charges) (PE2042)	10
NEW PETITIONS	12
Hate Crime and Public Order (Scotland) Act 2021 (PE2097)	12
Wildlife and Countryside Act 1981 (Ministerial Guidance) (PE2100)	13
Defibrillators (Schools) (PE2101)	14
Rape and Sexual Assault (Minimum Sentences) (PE2102).....	15
Puberty Blockers (PE2104)	20
Mobile Phones in Schools (PE2106).....	22

CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE

14th Meeting 2024, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Foysool Choudhury (Lothian) (Lab)

*Fergus Ewing (Inverness and Nairn) (SNP)

*Maurice Golden (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Fulton MacGregor (Coatbridge and Chryston) (SNP)

CLERK TO THE COMMITTEE

Jyoti Chandola

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 25 September 2024

[The Convener opened the meeting at 09:31]

Decision on Taking Business in Private

The Convener (Jackson Carlaw): Good morning, and welcome to the 14th meeting in 2024 of the Citizen Participation and Public Petitions Committee. Agenda item 1 is to agree to take in private item 4, which is consideration of our draft report on the A9. Are members content to take item 4 in private?

Members indicated agreement.

Continued Petitions

Taxi Trade (PE1856)

09:31

The Convener: Under agenda item 2, we have five continued petitions to consider, the first of which is PE1856, lodged by Pat Rafferty on behalf of Unite the union. The petition calls on the Parliament to protect the future of the taxi trade by providing financial support to taxi drivers, setting up a national stakeholder group with trade union driver representatives and reviewing low-emission standards and implementation dates.

Transport Scotland has confirmed that a meeting was initiated and facilitated by Glasgow City Council with Unite, the Energy Saving Trust and Transport Scotland. Colleagues will remember that we held an evidence session with representatives from the Scottish Taxi Federation in relation to the issues raised in this petition and, I think, another one that we had at the same time.

Glasgow City Council's recent written submission states that it received 776 applications for a temporary exemption to the enforcement of the low-emission zone. All 776 requests were granted. In short, all taxi operators who applied received the requested exemption. In February this year, conditions were agreed for those who may require an extension beyond the agreed year. Glasgow City Council granted 225 extensions to the exemption and notes that it will continue to show flexibility to operators who are making efforts towards compliance, should that be required.

In relation to the issues that we discussed, I think that a reasonably pragmatic approach was secured. In light of that, do members have any suggestions as to how we might proceed?

David Torrance (Kirkcaldy) (SNP): In light of the evidence and the collaboration between Glasgow City Council and the taxi trade, the committee should close the petition under rule 15.7 of standing orders, on the basis that the Scottish Government outlined a number of funding options available to support drivers in the taxi trade; that grace periods where the LEZ restrictions are in place but penalties are not applied have been implemented in Glasgow and could be applied by other local authorities if they wish to do so; that Glasgow City Council has developed a mechanism for eligible taxi operators to receive a temporary exemption to the LEZ in order to provide more time to comply; and that Transport Scotland has been engaging with Unite the union to discuss issues pertaining to the taxi trade, particularly in relation to the LEZ.

The Convener: Unless members have any alternative or additional suggestions, are we content to close the petition on that basis?

Members *indicated agreement.*

The Convener: I thank Pat Rafferty and Unite and I hope that the action and the pragmatic approach that have been taken offer the taxi trade in Glasgow the comfort and support that it requires.

Looked-after Young People (Aftercare) (PE1958)

The Convener: The second of our continued petitions is PE1958, on extending aftercare for previously looked-after young people and removing the continuing care age cap. The committee has taken considerable interest in the petition during this session of Parliament. It was lodged by Jasmin-Kasaya Pilling—who I note is with us in the public gallery again, along with colleagues—on behalf of Who Cares? Scotland.

The petition calls on the Scottish Parliament to urge the Scottish Government to extend aftercare provision in Scotland to previously looked-after young people who left care before their 16th birthday, on the basis of individual need; to extend continuing care throughout care-experienced people's lives, again on the basis again of individual need; and to ensure that care-experienced people are able to enjoy lifelong rights and achieve equality with non-care-experienced people. That includes ensuring that the United Nations Convention on the Rights of the Child and the findings of the Promise are fully implemented in Scotland.

We last considered the petition on 22 November last year, at which time we heard from the Minister for Children, Young People and Keeping the Promise and agreed to follow that up by writing to the minister and to the Scottish Throughcare and Aftercare Forum. We have subsequently received a response from the Scottish Government referencing the support that is in place to support care-experienced people and the on-going collaboration with The Promise Scotland and other stakeholders to improve the package of support that is available to care-experienced young people.

The Scottish Government's response also restates its commitment to introduce the proposed Promise bill by the end of the current parliamentary session. Members will have noted that a consultation is now under way, aimed at ensuring that young people who are leaving care and moving into adulthood have the right scaffolding of support available to ensure that they thrive. The Scottish Government consultation will

remain open until next Thursday, which is 3 October.

The Scottish Throughcare and Aftercare Forum response sets out its support for the aspirations of the petition, including the removal of arbitrary age criteria, and highlights the focus of the 100 days of listening on identifying solutions to ensure delivery of the Promise for all those who move on from care.

We have also received two submissions from the petitioner, Jasmin-Kasaya Pilling, the first of which responds to the detailed information that the Scottish Government provided. That submission raises further concerns about the varying levels of current support being provided to young people who leave care across Scotland. Jasmin has also included a practical list of suggestions for improving this scaffold of support that is available to people who are moving on through care or from care. In her most recent submission, Jasmin provides an overview of the themes that were raised during the 100 days of listening, which in her view reaffirm the need for the action that is called for in the petition.

We have expressed considerable interest in the petition and taken evidence on it, and the Government now indicates that it is taking action on the petition. The question for the committee is what more we think we can achieve in the time that is left to us in this session, which, of course, is now more limited. We had previously considered a parliamentary debate, but it is open to members to consider whether we have enough of an argument for that, given the Government's response.

David Torrance: Considering the Government's response and the commitment to a Promise bill before the end of the parliamentary session, I wonder whether the committee could close the petition under rule 15.7 of standing orders, on the basis that the Scottish Government is currently consulting on the change required to ensure that young people leaving care and moving into adulthood have the right scaffolding support available to meet their needs; and that it has committed to introducing a Promise bill before the end of the current parliamentary session. In closing the petition, the committee could highlight to the petitioner that, if that is not achieved by the end of the parliamentary session, they can bring a new petition in the next parliamentary session.

The Convener: The difficulty that we have is that the Government is making plain that it proposes to bring forward the legislation before the end of the session, which is the aim of the petition.

Mr Ewing, do you have any thoughts?

Fergus Ewing (Inverness and Nairn) (SNP): I do not think that there is much more that we can

do. We have already made pretty clear our view that the current situation is arbitrary and basically impossible to support. The abrupt cessation of care at a random age must be arbitrary and, therefore, given the Scottish Government's statement of intention, it is now up to it to deliver. Should it fail to do so or should there be feet dragging, I would certainly hope that the matter will come before the committee again in the form of a new petition.

The Convener: Yes. Are there any other comments? Are colleagues agreed? I think that that is the position we are in. The Government has made various commitments as to what it plans to do, but it has set the timeline as being the end of the parliamentary session, which limits our ability to progress things, given that it has said and will continue to say that that is its intention. However, if we find that that is not happening, there will be a new petitions committee sitting here at the start of the next session and any fresh petition, of course, can refer to the current one and the work that was done. I hope that we will have achieved the ambitions of the petition but, if we have not, a fresh petition could be raised at that time.

I am not comfortable with that, but I am not sure, given our ability to act, that there is any more that I can positively see us doing at this stage.

Fergus Ewing: I think that you are right, convener. However, in closing the petition, perhaps we could write to the minister indicating our strong view that there is now a duty on the Government to bring forward the legislation as quickly as possible. It is not that complicated so, basically, the Government should get on with it. If we sent that message very clearly, there is a written record for the petitioner and those who have an interest in the issue. It is a very serious topic. We have given a clear steer as a committee of Parliament that we think that this should happen quickly.

The Convener: Are colleagues content for us to write to the minister on the basis that we have considered the petition afresh and come reluctantly to the view that there is no more that the committee can do, but that is in the light of the specific commitments that we have received from the Scottish Government and the committee's unanimous view that those commitments should be fulfilled during this session of Parliament?

Foyso Choudhury (Lothian) (Lab): What are the chances of asking for a parliamentary debate as well, as you mentioned?

The Convener: I am not sure what that would achieve at the moment. The Government will say that that is what it intends to do, so that is the difficulty. There is no debate about the substance of the issue. If we were in a dispute and we were

advocating a course of action that the Government was rejecting, there would be the basis for us to argue that case in the Parliament. However, we are not arguing against the Government; we are supporting what the Government wants to do, but we want it to do it. I am not sure that that gives us the basis, with the limited amount of debating chamber time that there is, to construct a narrative that would justify having a debate.

Are colleagues content that we write to the minister on that basis?

Members indicated agreement.

The Convener: I thank Jasmin-Kasaya Pilling and the others who have been involved in the petition. Their focus and the evidence that they gave us persuaded the committee of the case. In closing the petition, we will write to the minister in the terms that we have suggested to ensure that the commitment that we have received is fulfilled. Given the limited time that we now have in this parliamentary session, we will emphasise in writing again to the petitioner that, if that does not happen, as part of the legacy from this session to the next, we hope that a fresh petition can be raised with reference to the work that was done.

Are colleagues content to act on that basis?

Members indicated agreement.

Royal Conservatoire of Scotland (Funded Places for Scottish Ballet Dancers) (PE1982)

The Convener: PE1982, which was lodged by Gary McKay, calls on the Scottish Parliament to urge the Scottish Government to review the funding that is provided to the Royal Conservatoire of Scotland to enable more places to be made available to Scottish students pursuing ballet at that level. We previously considered the petition on 23 September 2023.

The Royal Conservatoire of Scotland's written submission—which is much more substantial than the one that was provided the first time around, with which the committee was less than impressed—provides detail about its approach to data collection and dissemination. The submission emphasises that Scottish applicants do not compete for places with applicants from the rest of the United Kingdom or with international students. The submissions states that Scottish applicants

“are viewed as an entirely separate category and audition only in a pool consisting of other Scottish applicants.”

09:45

We have received a further submission from the petitioner, who continues to be concerned about the ability of Scottish students to secure places.

He believes that there are other criteria that are not entirely consistent with rejection notices that say that the applicant has not reached the right standard, because some people who have received such notices have, apparently, been accepted at ballet schools elsewhere, particularly the Central School of Ballet in London. The slight difficulty is that different schools will have different criteria, so it is a bit subjective.

The Royal Conservatoire's more substantive response, which committee members have before them, goes into a lot more detail and satisfies my disappointment about its previous submission. However, I emphasise to the Royal Conservatoire and the committee that we want Scottish students to get the best possible opportunities from national institutions in Scotland.

Mr Ewing, do you wish to make any comments?

Fergus Ewing: I agree that the Royal Conservatoire's response is much more detailed. To be fair, it has responded to many of the points that you raised in the previous meeting. In practical terms, with reluctance, I think that we should close the petition under rule 15.7 of standing orders on the basis that the Scottish Government does not decide how many funded places individual universities should make available for eligible students in subjects that are not controlled subjects. The Scottish Government and Scottish ministers are unable to intervene in internal institutional matters. It is for the university to decide which courses it offers and how many funded places are available for each course. In making that recommendation, I am conscious of the Scottish Government's limited scope to do what the petitioner wishes.

Having said all that, I have a lot of sympathy with the petitioner's cause. Some years ago, one of my constituents had virtually the same concern. It seems to me that the Royal Conservatoire should look very carefully at its processes to ensure that children and young people from Scotland are given the opportunity to pursue that specialist education and training.

Although the table shows that the numbers of applicants from Scotland who accept places are perhaps greater than I had realised, they are, nonetheless, still very small. There were six in 2023, but there were only three in 2022, so we are talking about very small numbers. The issue is not going to go away, so I wanted to put that on the record. I hope that the Royal Conservatoire will agree that we have been reasonable in considering its case, but we are still slightly uneasy about the apparent paucity of places available for Scottish students in a Scottish institution.

The Convener: I think that Mr Ewing sums up well the feelings of the committee. We appreciate the depth of the Royal Conservatoire's response, but it would be useful to use the word "uneasy"—which is the word that Mr Ewing used—in any final letter that we send to the Royal Conservatoire. Is it the committee's view that, in the light of everything that we have received, we should close the petition?

Members indicated agreement.

Fergus Ewing: A fresh petition could be lodged within a year. Is that right, or is it six months?

The Convener: It is 12 months.

Fergus Ewing: I imagine that the petitioner and others who have an interest will consider the matter each year, so it is possible that, if matters deteriorate or do not improve, the petitioner and others who have a similar concern could bring the issue back to the Parliament in the light of the decisions that the Royal Conservatoire makes this year. That might focus minds a little bit.

The Convener: That is reasonable. We have agreed to close the petition on that basis. We will send a letter to the Royal Conservatoire explaining that we appreciated the depth of its response, which allowed the committee to close the petition. Nonetheless, we will say that there is still unease about the relatively low number of Scottish students and that we hope that it will continue to review the situation and encourage the best possible talent to apply from within Scotland, with the entry criteria being satisfied, so that more Scottish students can be accommodated.

Braille Food Labelling (PE1997)

The Convener: PE1997, which was lodged by Fiona McDonald on behalf of Sight Scotland and Sight Scotland Veterans, calls on the Scottish Parliament to urge the Scottish Government to introduce new legal requirements on retailers to provide Braille labelling on food products detailing the name of the item and its use-by or sell-by date.

We previously considered the petition at our meeting on 22 November. We agreed to write to the United Kingdom Department for Environment, Food and Rural Affairs—which is more commonly known as DEFRA—and to Food Standards Scotland. The latter has told us that it is

"looking to use all available relevant science, evidence and research to inform our thinking on the matter".

Food Standards Scotland's response highlights that no timescale has been set to carry out that work but that it will continue to discuss issues relating to Braille food labelling on a UK basis, in line with the common framework for food composition, standards and labelling. It says that it

will continue to keep in touch with the petitioner as its plans develop.

In its response to the committee, DEFRA states that there are

“no immediate plans to initiate a public consultation on ... the introduction of mandatory braille labelling on food products.”

It notes that factors such as

“practical viability of braille labelling on a diverse range of packaging formats, and the costs and effectiveness of the use of braille labelling relative to that of using different methods”

would have to be considered before a public consultation was launched.

We have subsequently received two submissions from the petitioner, who has raised concerns that “current practices fall short” of UK standards for food labelling and is seeking clarification on how compliance with existing standards is monitored.

We were interested in the petition when we first heard about it, and we have had quite interesting and comprehensive responses from the organisations and bodies to which we wrote. How do members think we should proceed?

David Torrance: Considering the evidence that the committee has received, I think that we should consider closing the petition under rule 15.7 of standing orders on the basis that Food Standards Scotland intends to build further evidence on and knowledge of the practicalities and costs before developing potential options for Braille food labelling. As part of that work, it will discuss issues on a UK basis through the common framework for food composition, standards and labelling.

In closing the petition, we could highlight to the petitioner that they can bring back a petition in a year’s time if they are not happy with the results. Given that there is a UK-wide approach to food labelling, the petitioner might wish to consider raising the issue through the UK Parliament’s petition system.

The Convener: As there are no other suggestions from colleagues, is the committee content to close the petition?

Members indicated agreement.

The Convener: I emphasise that this will be an on-going issue. Although there was an acceptance of the issues that have been raised, the responses that we received were not exactly a call to action at this stage, albeit that there was an indicative suggestion that action might follow at some point. The issue could well be considered afresh in the next parliamentary session.

Forestry and Land Scotland (Car Parking Charges) (PE2042)

The Convener: The final continued petition—PE2042—which was lodged by Undine Achilles-Day on behalf of Taynuilt community council, calls on the Scottish Parliament to urge the Scottish Government to abolish car parking charges at all Forestry and Land Scotland sites to promote access to forests and green spaces across Scotland.

The petition was previously considered at our meeting on 22 November. We agreed to seek more information from Forestry and Land Scotland, and I am pleased to note that we received a response from it that sets out the rationale for car parking charges at specific sites. The response provides details of the revenue that is received from the charges and of the management costs of maintaining its trails and car parks. The response states that the management of trails and car parks costs Forestry and Land Scotland £5.8 million annually, whereas the income that it receives from car parks is about £1 million.

We have a detailed submission with interesting information about the costs and the sums that are raised. Do any colleagues wish to comment or make suggestions on how to proceed?

Mr Ewing, you looked as though you were bursting to say something, or were you just bursting to say something but thinking better of it?

Fergus Ewing: I do not think that “bursting” is the word that I would use. I think that Mr Torrance was planning to say something.

David Torrance: As somebody who uses forestry car parks quite a lot in Aviemore and other places, I know that there are additional pressures as a result of the numbers of people who are turning up to the beautiful locations and trails. We know that £5.8 million is spent on repairing or restoring the car parks, but they bring in only £1 million in revenue.

I think that we should close the petition under rule 15.7 of standing orders on the basis that car parking charges have been in place at popular Forestry and Land Scotland sites for more than 20 years. The decision to increase the number of Forestry and Land Scotland sites where car parking charges apply followed the Scottish Government’s challenge to public bodies to actively seek to increase income from visitors in order to offset the increasing costs of managing visitor pressures. Abolishing parking charges at Forestry and Land Scotland sites would have a substantial impact on its finances. Forestry and Land Scotland highlights that the cost of managing trails and car parks is considerably more than the

income that it receives from parking charges and that two thirds of its car parks will remain free for use by the public.

The Convener: If only the same dedication was shown to filling potholes in our roads.

David Torrance: I agree.

The Convener: We considered a petition on that subject at our previous meeting, and I wrote to the minister—or, at least, I wrote to somebody—with Mr Ewing’s suggestion about how funds could usefully be transferred from elsewhere.

Does Mr Torrance’s proposal meet the acceptance of the committee?

Members indicated agreement.

New Petitions

09:57

The Convener: Agenda item 3 is consideration of new petitions. As I always do before we consider new petitions, I say for the record that, in considering any new petition, we initially invite the Parliament’s independent research body, the Scottish Parliament information centre, and the Scottish Government to give us a preliminary view. That is not in any way to undermine or shortcut our consideration of the petition. It is simply the case that, in considering new petitions in previous sessions of Parliament, that was the first thing that the committee decided that it would do. That allows us to have some informed views before us when we consider a new petition.

Hate Crime and Public Order (Scotland) Act 2021 (PE2097)

The Convener: The first new petition this week is PE2097, by Giovanni di Stefano, which calls on the Parliament to urge the Scottish Government to immediately repeal the Hate Crime and Public Order (Scotland) Act 2021. It is the petitioner’s view that that act is in violation of the European convention on human rights and the Universal Declaration of Human Rights, while also being, in his words, “impossible for the police to enforce”.

Members will recall that, shortly after the main provisions of the act came into effect in April of this year, Parliament debated a motion to repeal the legislation, which is the objective of the petition, and that that motion was not agreed to. In its response to the petition, the Scottish Government states that the act includes

“rigorous safeguards on free speech and is compatible with the European Convention on Human Rights”.

Notwithstanding the views of individual committee members in relation to the objective of the petition, it is the case that Parliament has recently debated and voted on the very thing that the petition seeks to achieve and, unfortunately for the petitioner and for those who felt similarly, that motion was not agreed to.

In the light of that, I wonder whether the petition is one that we can usefully take forward or whether, in a sense, Parliament has recently spoken on it already. I am inclined to take the latter view and to say from the chair that, on this occasion, because we have recently had a vote on the matter, I think that we should close the petition under rule 15.7 of standing orders, on the basis that Parliament considered the objective that the petition seeks to achieve and, sadly—for those people who agree with the petitioner and others—

on 17 April, the majority of members voted not to repeal the legislation.

Do members agree with my proposal?

Members indicated agreement.

The Convener: I thank the petitioner for lodging the petition, but we had a vote in Parliament on the matter not long before the summer recess, when Parliament once again expressed its view.

Wildlife and Countryside Act 1981 (Ministerial Guidance) (PE2100)

10:00

The Convener: The second of our new petitions is PE2100, by Gary Wall, which calls on the Scottish Parliament to urge the Scottish Government to produce guidance under section 54 of the Nature Conservation (Scotland) Act 2004 to clarify the criteria for consideration of “no other satisfactory solution” in relation to licensing and to include the sustainable cultural use of natural resources under section 16 of the Wildlife and Countryside Act 1981.

In his written submission to the committee, the petitioner notes that

“NatureScot can change their ‘will’ because they have no transparent conservation ‘objective’ to apply when making a licensing decision on sustainable cultural use.”

The petitioner is concerned that NatureScot’s application of the satisfactory solution test is not clear, and that Scottish Government guidance is therefore required.

In its written response to the committee, the Scottish Government highlights the fact that NatureScot’s licensing guidance includes specific guidance on the interpretation of the “no other satisfactory solution” test. It sets out the points that are considered by NatureScot when it applies that test and notes that

“where another solution exists, any argument that it is not ‘satisfactory’ will need to be strong and robust”.

I emphasise the fact that, in its response, the Scottish Government states that it has

“no intention to bring forward legislation to include the sustainable cultural use of natural resources under Section 16 of the Wildlife and Countryside Act 1981.”

The key here appears to be interpretation of the “no other satisfactory solution” test and the petitioner’s assertion of something that I am not sure is actually detailed in the way that the petitioner believes that it is, together with the fact that the Scottish Government has said that it has no intention of bringing forward legislation, which is a pretty clear steer.

In the light of that, do colleagues have any suggestions on how we should proceed?

David Torrance: Given the Scottish Government’s response, it is, as you said, pretty clear that it does not intend to legislate in this area. Therefore, will the committee consider closing the petition under rule 15.7 of standing orders, on the basis that the Scottish Government has no intention of legislating to include the sustainable cultural use of natural resources under section 16 of the Wildlife and Countryside Act 1981, and because NatureScot provides detailed licensing guidance that includes specific guidance on the interpretation of the “no other satisfactory solution” test and which takes into consideration European Court of Justice case law?

The Convener: Do colleagues agree with that suggestion?

Members indicated agreement.

Defibrillators (Schools) (PE2101)

The Convener: PE2101, which has been lodged by Peter Earl on behalf of Troqueer primary school, calls on the Scottish Parliament to urge the Scottish Government to provide primary and secondary schools with automated external defibrillators—AEDs. The petition explains that Troqueer primary school pupils discovered that their local defibrillator is, in fact, too far away to have a positive impact if someone were to suffer cardiac arrest at the school.

The SPICe briefing notes that, in January of this year, data that was obtained through freedom of information requests submitted by the Scottish Conservative and Unionist Party showed that approximately four in 10 Scottish schools do not currently have a defibrillator. It is thought that that figure could be an underestimate, because six of Scotland’s 32 local authorities did not respond to the freedom of information requests.

The UK Government provided AEDs to state schools in England that did not already have one on site to ensure that all state schools had a defibrillator by the end of the 2022-23 academic year.

The committee has received a response to the petition from the Minister for Public Health and Women’s Health, which highlights the existence of “Scotland’s Out-of-Hospital Cardiac Arrest Strategy 2021-2026” and points out that one of the strategy’s aims is to increase the percentage of OHCA cases in which a defibrillator is deployed before the arrival of the Ambulance Service to 20 per cent. The response also points out that decisions on the installation and maintenance of defibrillators in schools are matters for local authorities to consider at local level.

Members will know that our colleague Finlay Carson has expressed an interest in the petition. Although he is unable to join us today, he has submitted a written submission.

The provision of defibrillators is an issue that we have come round to before. It seems something of a no-brainer that defibrillators should be in place in schools. Other parts of the country have already moved to ensure that that is the case. The response that we have received is a bit lacking, I think, in that nobody appears to be taking a lead. It is all just being farmed around. Do colleagues have similar thoughts? Does anyone have any suggestions on how we might proceed?

David Torrance: I will break with tradition here: I think that the issue is one that the committee could take forward. It is a very important issue. Defibrillators save lives. I am surprised that not every school in Scotland has them. Therefore, I suggest that the committee considers writing to the Minister for Public Health and Women's Health to highlight the UK Government's provision of defibrillators to all schools in England and to ask whether the Scottish Government will provide direct funding for primary and secondary schools to purchase and install defibrillators.

The Convener: It seems invidious that Scottish schools are now behind the standard that is being set elsewhere around the UK and that four in 10 schools—the figure might be slightly higher—would not, in the event that an emergency occurred, have access to life-saving equipment that has a proven track record. I have seen such equipment being deployed, and I know that other colleagues have heard of instances of its deployment in which lives have been saved as a result.

Are colleagues content to support Mr Torrance's recommendation?

Members indicated agreement.

The Convener: We will keep the petition open, and we will seek to pursue the objective of securing a defibrillator for every school in Scotland.

Rape and Sexual Assault (Minimum Sentences) (PE2102)

The Convener: We come to PE2102, for our consideration of which Fulton MacGregor MSP has expressed an interest in joining us. I understand that he will be with the committee shortly.

The petition, which has been lodged by Anna-Cristina Seaver, calls on the Scottish Parliament to urge the Scottish Government to abolish the option of an absolute discharge in cases where the accused is found guilty of rape or sexual

assault and to introduce a statutory minimum sentence for such offences that includes the convicted person being registered as a sex offender.

The Scottish Sentencing Council's information on absolute discharge states that

"Reasons for an absolute discharge can include, for example, that the crime is very minor, that the offender has been previously of good character, or that the offender is very young or old."

The Scottish Government's statistics show that there were two absolute discharges for rape and attempted rape and nine for sexual assault in 2021-22.

The petitioner feels that, even though the numbers are low, there is no circumstance that is exceptional enough to allow a person who is found guilty of a sexual assault to go unpunished. In its response, the Scottish Government notes that, in assessing a case, the court will consider the appropriate sentence for each offender before them,

"taking account of all the relevant facts and circumstances of the particular case."

That includes consideration of the fact that absolute discharge will remove the requirement for notification—that is, for the person to be registered as a sex offender.

In her recent submission, the petitioner argues that the current framework has a loophole that excuses those with an absolute discharge from being subject to notification requirements. That is because the length of an individual's notification requirement is set by the length of their sentence. When no sentence is set when an individual receives an absolute discharge, that equals a period of "no duration" in which they are subject to notification requirements.

I will use my discretion to briefly suspend the meeting, because I understand that Mr MacGregor will be with us shortly, and I know that the committee would want to give him an opportunity to comment on the issues raised by the petition.

10:09

Meeting suspended.

10:15

On resuming—

The Convener: Welcome back. Before we suspended, we were considering PE2102, from Anna-Cristina Seaver, which seeks to require that anyone who is found guilty of rape or sexual assault to be registered as a sex offender. I read out and detailed the general principles of the petition.

Fulton MacGregor MSP has now joined us, and I am delighted that he will contribute some thoughts to the committee ahead of our consideration of the actions that we might take. Good morning, Mr MacGregor. The committee would be delighted if you would detail your thoughts to us.

Fulton MacGregor (Coatbridge and Chryston) (SNP): As the committee will be aware, the petition before you calls on the Scottish Parliament to urge the Scottish Government to abolish the option of an absolute discharge in cases where the accused is found guilty of rape or sexual assault and to introduce a statutory minimum sentence for those offences that includes the convicted person being registered as a sex offender. The petitioner is a constituent of mine and has met me to discuss the issue on several occasions. It is an issue that she is very passionate about.

It should be noted that I have written to the Cabinet Secretary for Justice and Home Affairs on the issue as a result of the discussions that I have had with my constituent. The cabinet secretary has outlined the narrow scope whereby someone who is convicted of a sexual assault can receive an absolute discharge, as well as some of the reasons that a change to legislation might be difficult to implement here. With permission of the cabinet secretary and my constituent, I could share that correspondence with the committee if it is interested in seeing that.

The petitioner acknowledges that an average of three people each year were granted an absolute discharge as a result of receiving a guilty verdict for sexual assault, which underlines the rare circumstances in which that occurs.

However, at its core, the petition seeks to address an apparent loophole. Being convicted of an offence that is listed under schedule 3 to the Sexual Offences Act 2003 makes the offender automatically subject to notification requirements—that is, they become a registered sex offender. The notification requirements are not dependent on an order of the court. An offender who becomes subject to the requirements does so automatically, because they have been convicted, cautioned, reprimanded or warned for a “relevant offence”. There is no discretion exercised by the courts or the police in imposing the notification requirements on relevant offenders.

However—this is the perceived loophole—absolute discharges do not trigger the notification requirements. In solemn proceedings, even when an offender receives an absolute discharge, a conviction is still recorded. Despite the conviction, an absolute discharge means that no duration is assigned for notification requirements, creating the said loophole that means that the offender is not

subject to notification requirements. The petitioner feels that that should be an automatic process as part of the conviction.

The petition has perhaps come at an apt time as the Scottish Sentencing Council is currently at stage 2 of its process to develop sentencing guidelines on sexual assault and at stage 4 of its process to develop sentencing guidelines on rape. As the council must consult Scottish ministers and the Lord Advocate before submitting the guidelines to the High Court, there might be some scope for the committee or the Parliament to impress upon the Scottish Government the nature of the petition and what it is trying to achieve.

Ultimately, the petition is based on the notion that my constituent has asserted to me very clearly that they do not believe there is any circumstance that is exceptional enough to allow a person who is convicted of sexual crimes not to be subject to the notification requirements. Part of the assertion comes from how difficult such convictions are to obtain, through every part of the criminal justice process, which is something that the Criminal Justice Committee is very aware of. There are a small number of people who receive guilty verdicts and whose sentence is absolute discharge. However, where victims later learn that they are not subject to sex offender registration, that could and does have a devastating impact on victims.

I conclude by thanking my constituent for submitting the petition, for getting the number of signatures that she did and for bringing the matter to the Parliament. As I said, she is very passionate about the issue and she wants to see change in that area. I will continue to support her in my role as her local MSP.

Back to you, convener.

The Convener: Thank you very much, Mr MacGregor. I also thank your constituent for submitting her petition, which raises issues for the committee to consider. Do colleagues have any suggestions as to how we might proceed?

David Torrance: I wonder whether the committee would consider writing to the Scottish Government to ask for its views on the petitioner’s request to abolish absolute discharge in cases of rape or sexual assault and to introduce a statutory minimum sentence for those offences.

The Convener: If I could just interrupt you on that point, Mr Torrance. In that letter to the Scottish Government, we could draw on some of the additional suggestions that might be made to it from Mr MacGregor’s evidence as well.

David Torrance: Yes. I also wonder whether the committee would consider writing to Victim Support Scotland and Rape Crisis seeking their views on the action called for in the petition. As Mr

MacGregor has already highlighted, I would like to inform the petitioner about the Scottish Sentencing Council's consultation on the draft sentencing guidelines on rape—although I have no doubt that the petitioner is already engaged with that process.

The Convener: Thank you. Are there any other comments or suggestions from colleagues?

Fergus Ewing: Mr MacGregor put the case very well. I noted that 453 signatures have been obtained, which is a fairly substantial number. I support the recommendations that have been made by Mr Torrance and yourself, convener.

I was curious as to how many instances of absolute discharge there have been in cases in which there has been a conviction for rape or attempted rape or, indeed, for sexual assault. I have been advised that the figures show that there were two absolute discharges for rape and attempted rape and nine for sexual assault in 2021-22.

I mention that as I am curious to know whether it is possible to get any explanation, without breaking any rule about confidentiality, as to why an absolute discharge was granted in those cases. To any onlooker, it must seem pretty inexplicable that an absolute discharge would be granted, especially for a crime of rape. It is very difficult to understand what circumstances could be so exceptional as to justify such an outcome when someone is convicted of something as serious as rape. I find it very hard to imagine any circumstances in which that would be fair. However, on the other hand, the whole point of discretion of the court is that, if there are truly exceptional circumstances, it has that discretion. That would be the argument.

I am labouring the point a little bit, but I am curious as to what the justification was for that outcome in those cases. I do not know whether it is possible to find that out, convener, but I think that we should certainly try to do so.

The Convener: Would that be for the Scottish Sentencing Council to respond to? Should we invite it, insofar as it is able, to identify circumstances in which absolute discharge would have been granted, without prejudicing the particular circumstance of any individual case?

Fergus Ewing: Yes, I think that it would be. There is an additional point here: if the council is unable to explain what the circumstances were that merited that surprising outcome, how can it make a judgment on dealing with those matters in future? In other words, this is a *sine qua non* in relation to its work on sentencing guidelines.

The Convener: Given that we know that the Scottish Sentencing Council is undertaking a

consultation—and we respect the fact that it is—it would be helpful to the committee, in trying to understand on behalf of both the petitioner and others who might be looking at the issues that are identified in the petition, if the council was able to give us some understanding as to how an absolute discharge might arise as an appropriate sentence. We are not asking for any breach of confidentiality in a specific circumstance, but we would like to understand in a more general sense how that could happen. On the face of it, it seems unpalatable.

We will keep the petition open. Thank you, Mr MacGregor, for your contribution.

Are colleagues content that, in addition to Mr Torrance's and Mr Ewing's suggestions, we proceed on the basis that we have identified?

Members indicated agreement.

Puberty Blockers (PE2104)

The Convener: PE2104 was lodged by Sophie Molly. I notice that Maggie Chapman, who I think has an interest in the petition, is in the gallery. The petition calls on the Scottish Parliament to urge the Scottish Government to ask the relevant health boards to reassess the decision to pause the prescription of puberty hormone suppressants and gender-affirming hormones for children and young people with gender dysphoria in Scotland, and to ensure that it is still possible to provide new prescriptions while a review of the decision takes place.

The petitioner tells us that the health and wellbeing of trans and gender non-conforming children will be adversely affected by the decision to pause new prescriptions of puberty hormone suppressants and gender-affirming hormones to young people. The decision to pause that treatment option is linked to the outcomes of the Cass review of gender identity services for young people in England. As members might be aware, the Scottish Government has confirmed that it accepts in full the Cass recommendations, with work under way to implement them.

In its response to the petition, the Scottish Government has stated its commitment to the improvement of gender identity healthcare in NHS Scotland for all who need it, and draws our attention to a grant that has been awarded to the University of Glasgow to administer a programme of research into the long-term health outcomes of people accessing gender identity healthcare. The response also highlights the engagement with NHS England on its planned study into the use of puberty blockers in young people's gender identity healthcare.

We have also received a submission from the petitioner highlighting concerns about the quality of data and evidence that was used to inform the recommendations of the Cass review, which, in their view, suggests that the resulting decision to halt prescriptions of puberty blockers was ideologically rather than clinically driven.

Members might also be aware—this is an important consideration for this committee—that our colleagues on the Health, Social Care and Sport Committee have been hearing evidence on the independent review of gender identity services for children and young people. The fact that another committee of Parliament is considering the issues that are raised in the petition might dictate what options we feel are open to us.

Do colleagues have any thoughts or comments?

David Torrance: As a member of the Health, Social Care and Sport Committee, I can confirm that we are already looking into and reviewing gender identity services for children and young people. I wonder whether the committee would consider closing the petition under rule 15.7 of standing orders on the basis that the Health, Social Care and Sport Committee is currently taking evidence on the independent review of gender identity services for children and young people, including hearing evidence from the chief medical officer at the end of October.

The Convener: We might also write to the Health, Social Care and Sport Committee detailing the petition that we have received. If it is taking evidence from the chief medical officer at the end of October, would it be possible to write to the committee asking it to make reference to the petition that we have received when putting questions to him, with a view to trying to seek an update on the research that is being undertaken specifically on the issue?

I am conscious that, although the chief medical officer is coming to give evidence, it does not necessarily follow that the specific issue that is raised in the petition will feature in the committee's questions. In closing the petition, I wonder whether it would be possible for us to invite the committee to consider whether it might give consideration to asking the chief medical officer about the issue that the petitioner raises.

Do colleagues have views? Given that another committee is considering the issue, I am not sure that there is much more that we can actively do. Generally speaking, we do not consider things in parallel with other committees.

The petitioner raises an important issue. The committee is reluctantly minded to close it, but we will seek to ensure that the Health, Social Care and Sport Committee is made aware that the petition has been raised and try to have the issue

raised directly with the chief medical officer when he gives evidence. Are we agreed?

Members indicated agreement.

Mobile Phones in Schools (PE2106)

10:30

The Convener: PE2106, which was lodged by Adam Csenki, calls on the Scottish Parliament to urge the Scottish Government to update guidance on mobile phones in schools to require all schools to prohibit the use of mobile phones during the school day, including at interval and lunch time.

The SPICe briefing highlights that decisions on the use of mobile phones in schools are a matter for local authorities or schools themselves. Indeed, I know from examples in my constituency that practice is variable. In August, the Scottish Government published new guidance on the use of mobile phones in schools aimed at empowering headteachers

“to take the steps they see fit to limit the use of mobile phones in schools, up to and including a full ban on the school estate during the school day, if that is their judgement.”

Responding to the petition, the Cabinet Secretary for Education and Skills tells us that she shares the petitioner's concerns about the impact of mobile phone use on children and young people's learning but states that the Scottish Government cannot unilaterally ban mobile phones in schools. The cabinet secretary added during her statement to Parliament earlier this month that

“the updated national guidance goes as far towards a national ban as I am currently able to go”.—[*Official Report*, 3 September 2024; c 70.]

We have received a submission from the petitioner that welcomes the updated guidance but raises concerns that leaving the decision up to individual headteachers risks creating an unequal experience for pupils and their teachers across Scotland.

Do members have any comments or suggestions?

David Torrance: Considering that the Scottish Government has recently published new guidelines setting out what schools may wish to consider when developing policy on mobile phone usage and engaging with parents, carers and the wider school community, and the Cabinet Secretary for Education and Skills has stated that the Scottish Government cannot unilaterally ban mobile phones in schools as that is a policy decision resting with headteachers and local authorities, I wonder whether the committee would

consider closing the petition under rule 15.7 of standing orders.

Maurice Golden (North East Scotland) (Con):

I wonder whether there is just a little bit more in this. I appreciate that the guidance has been updated but, given that this is a new petition, is it worth giving this issue a bit more of an airing to find out more evidence? The petition calls for the most extreme form of a ban, but there may be other variations that produce results. There is probably a gap when it comes to how confident the Scottish Government is that schools are collecting data on mobile phone misuse and understanding the scale of the problem. It would be useful to hear from the Convention of Scottish Local Authorities, the Association of Directors of Education in Scotland, the Association of Headteachers and Deputies in Scotland and School Leaders Scotland, in addition to any individual schools that have applied some form of a ban, which may be state schools or independent schools, and the educational attainment results arising from that.

David Torrance: I bow to Mr Golden's suggestion but, in that case, I wonder whether we could also write to the teaching unions to get their views on the matter. It is their members who will be engaging with it.

The Convener: Anecdotally—and it is only anecdotal, although first-hand anecdotal—I have been told by recent school leavers that, in fact, pupils are being encouraged to use their mobile phone as a working tool in the classroom to support the digital learning of the class. If that is an evolving practice in learning, I am not quite sure how that is consistent with banning the use of the mobile phone. There was talk at one time of every child being provided with an iPad or a laptop or something, but in the absence of that, how would digital learning proceed in the event of a total ban? That was the response of someone who had recently been at school and thought that there was a contradiction in that, albeit that they had been at a school where there were restrictions on when a phone could be used. The restrictions applied variably in different situations within the school.

I am interested in writing to the Cabinet Secretary for Education and Skills to understand whether, in a digital learning era, consideration has been given to the phone being a necessary piece of equipment in the same way that a calculator used to be. Can you just say, "Don't use them," or will that prejudice certain individuals' ability to participate in the learning of the class? I do not know, but I would like to be reassured on that point.

Maurice Golden: I agree. Lots of homework is done via mobile phone on Google Classrooms and

that is commonly used in classes as well—pupils use it to find out what the homework is and then work off that. It might be interesting to find out how individual schools have implemented restrictions on the wi-fi to limit the apps that pupils can access. As a parallel issue, there seems to be a growing increase in panic attacks among pupils in schools, and one of the ways in which those are mitigated and helped is by calling the parent. Without a phone, that will be difficult to do.

Again, that is anecdotal, but it would be useful to hear more about those issues.

The Convener: I am slightly concerned that this is a minefield and we should perhaps try to get a little bit more understanding and information in relation to the issues raised. Are colleagues content to proceed on the basis of Mr Golden's suggestion and others that followed to ensure that we understand what is happening?

Members indicated agreement.

The Convener: Thank you. That brings us to the end of the open session this morning. We will take item 4 in private. The committee will meet again on Wednesday 9 October.

10:37

Meeting continued in private until 10:58.

This is a draft *Official Report* and is subject to correction between publication and archiving, which will take place no later than 35 working days after the date of the meeting. The most up-to-date version is available here:
<https://www.parliament.scot/chamber-and-committees/official-report>

Members and other meeting participants who wish to suggest corrections to their contributions should contact the Official Report.

Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447
Fax: 0131 348 5423

The deadline for corrections to this edition is:

Tuesday 29 October 2024

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

All documents are available on the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot

