



**PUBLIC PETITIONS COMMITTEE**

**AGENDA**

**16th Meeting, 2012 (Session 4)**

**Tuesday 13 November 2012**

The Committee will meet at 10.00 am in Committee Room 1.

1. [\*\*PE1423\*\*](#) - **harnessing the undoubted talent of public sector staff:** The Committee will take evidence in a round table format from—

Gordon Hall, Petitioner, The Unreasonable Learners;

Professor Richard Kerley, Professor of Management, Queen Margaret University;

Dot McLaughlin, OD Programme Manager, Change and Development Team, Improvement Service;

Jim Mather, Chairman, Gael Ltd and Visiting Professor at the University of Strathclyde;

Dr Nicola Richards, Deputy Director, Organisational Development, Leadership and Learning, and Janet Whitley, Deputy Director, Workforce Engagement and Development, Scottish Government;

Dave Watson, Scottish Organiser (Bargaining and Campaigns), UNISON.

2. **Consideration of new petitions:** The Committee will consider—

[\*\*PE1438\*\*](#) by Lynsey Pattie on improving services for people with mental illness

and take evidence from—

Lynsey Pattie

and will then consider—

[PE1439](#) by Jonathan McColl on betting and loan shops in deprived communities

and take evidence from—

Councillor Jonathan McColl, West Dunbartonshire Council;

Murdoch Cameron, Chairman, Balloch and Haldane Community Council.

3. **Consideration of current petitions:** The Committee will consider—

[PE1402](#) by Richard Jones, on behalf of Addressing the Balance, on a strategy and policy for diagnosing and treating adult ADHD in Scotland;

[PE1412](#) by Bill McDowell on bonds of caution;

[PE1415](#) by John Steele on updating the Burial Grounds (Scotland) Act 1855;

[PE1425](#) by Maureen Harkness on the adverse impact of DVLA local office closures;

[PE1426](#) by Donna Scott on a national donor milk bank service;

[PE1428](#) by Councillor Douglas Philand, on behalf of Argyll First, on improvements for the A83.

Anne Peat  
Clerk to the Public Petitions Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
Tel: 0131 348 5186  
Email: [Anne.peat@scottish.parliament.uk](mailto:Anne.peat@scottish.parliament.uk)

The following papers are attached for this meeting—

### Agenda item 1

PE1423	Note by the Clerk	PPC/S4/12/16/1
PE1423	Private Paper	PPC/S4/12/16/2 (P)
Petitioner Letter of 1 November 2012		<a href="#">PE1423/K</a>
Petitioner Letter of 30 October 2012		<a href="#">PE1423/L</a>

### Agenda item 2

PE1438	Note by the Clerk	PPC/S4/12/16/3
PE1439	Note by the Clerk	PPC/S4/12/16/4

### Agenda item 3

PE1402	Note by the Clerk	PPC/S4/12/16/5
PE1412	Note by the Clerk	PPC/S4/12/16/6
Scottish Government Letter of 17 October 2012		<a href="#">PE1412/H</a>
Petitioner Letter of 25 October 2012		<a href="#">PE1412/I</a>
PE1415	Note by the Clerk	PPC/S4/12/16/7
Scottish Government Letter of 4 October 2012		<a href="#">PE1415/G</a>
PE1425	Note by the Clerk	PPC/S4/12/16/8
Scottish Motor Trade Association Letter of 5 October 2012		<a href="#">PE1425/C</a>
Transport Scotland Letter of 10 October 2012		<a href="#">PE1425/D</a>
Department for Transport Letter of 22 October 2012		<a href="#">PE1425/E</a>
PE1426	Note by the Clerk	PPC/S4/12/16/9
NHS Greater Glasgow and Clyde Letter of 4 October 2012		<a href="#">PE1426/J</a>
Petitioner Letter of 1 November 2012		<a href="#">PE1426/K</a>
PE1428	Note by the Clerk	PPC/S4/12/16/10
Scottish Government Letter of 30 September 2012		<a href="#">PE1428/F</a>
Petitioner Letter of 31 October 2012		<a href="#">PE1428/G</a>

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

## PE1423 on harnessing the undoubted talent of Public Sector Staff

## Note by the Clerk

**PE1423 – Lodged 8 March 2012**

Petition by Gordon Hall, on behalf of The Unreasonable Learners, calling on the Scottish Parliament to urge the Scottish Government to review the considerable research into the thinking that underpins the approach to managing the contribution from staff that has been undertaken over the past decades and compare this with the assumptions that underpin existing management practice; and subsequently to use the findings to ensure that it harnesses the talent of its staff.

[Link to petition webpage](#)

**Purpose**

1. This is a current petition which the Committee last considered at its meeting on [26 June 2012](#). The Committee decided to hold a round table evidence session on the issues raised in the petition.

**Background – the following information is taken from the [SPICe briefing](#)**

2. The Petition calls on the Parliament to urge the Government to “modernise the management culture of Scotland”. The name “unreasonable learners” comes from a quote from George Bernard Shaw—

“The reasonable man adapts himself to the world, the unreasonable one persists in trying to get the world to adapt to himself. Therefore all progress depends on the unreasonable man.”

3. The Unreasonable Learners had a stand in the Parliament in November 2011 to explain the thinking behind their work. The [booklet produced for MSPs](#) contains a useful summary. In short, the group believes that there is a “inordinate waste in our public sector”, caused by the “command and control” culture, i.e. “our society believes we need leaders to provide direction and they should then be supported by scrutiny methods to ensure we comply.” However, they state that there has been extensive research over the past decades that is “pushing us toward structures that are based on—

- A belief in people;
- The need to understand and re-design the complex systems that characterise our society;
- A recognition that the driving force for progress will not come from central direction but from innovative people at the workplace.”

## Scottish Government Action

4. The [Commission on the Future Delivery of Public Services](#), which reported in June 2011, contains a series of priorities for the future of public services in Scotland, many of which are relevant to the Petition, i.e.—
  - Recognising that effective services must be designed with and for people and communities - not delivered 'top down' for administrative convenience
  - Maximising scarce resources by utilising all available resources from the public, private and third sectors, individuals, groups and communities
  - Working closely with individuals and communities to understand their needs, maximise talents and resources, support self reliance, and build resilience
  - Concentrating the efforts of all services on delivering integrated services that deliver results
  - Prioritising preventative measures to reduce demand and lessen inequalities
  - Identifying and targeting the underlying causes of inter-generational deprivation and low aspiration
  - Tightening oversight and accountability of public services, introducing consistent data-gathering and performance comparators, to improve services
  - Driving continuing reform across all public services based on outcomes, improved performance and cost reduction
  - Implementing better long-term strategic planning, including greater transparency around major budget decisions like universal entitlements
5. The Government formally responded to the Commission in [Renewing Scotland's Public Services](#), setting out four key “pillars”—
  - a decisive shift towards **prevention**;
  - greater integration of public services at a local level, driven by better **partnership**, collaboration and effective local delivery;
  - greater investment in the people who deliver services through enhanced **workforce development** and effective leadership; and
  - a sharp focus on improving **performance**, through greater transparency , innovation and use of digital technology.

## Scottish Parliament Action

6. **The Session 3 Finance Committee** considered “systems thinking” in [its report on the Budget Strategy Phase in 2010](#). The Session 3 Committee’s report stated—

*Systems thinking*

99. Systems thinking is advocated by Professor John Seddon who, in oral evidence to the Committee, was a vociferous critic of certain central government efforts to improve performance in the public sector. In summary, he said that centrally-imposed targets could make performance worse, by leading professionals to meet all their activity targets without actually achieving the purpose of the service, for example, better social care. Inspectors could compound the problem by evaluating the “success” of targets that were wrong in the first place. He argued instead for greater innovation in public services, to “shift the responsibility for making choices about methods and measures to those managers who deliver the services”<sup>80</sup>.

100. While Professor Seddon’s oral evidence often focussed on English and Welsh examples, he considered that similar lessons would apply in Scotland. From the various mentions of systems thinking in the written and oral evidence, for example by Unison, it seems that there is a growing move towards this type of analysis in Scotland. Scott-Moncrieff said—

“A whole system approach to looking for savings is required. For example, the connection between policing resources, the number of prosecutions, court availability and prison capacity needs to be considered as a whole. Without a full understanding of these inter-dependencies driving savings in one spending area may just lead to more unavoidable demand for public spending in another area.”<sup>81</sup>

101. The Committee considers that the importance of longer-term approaches to public spending should not be forgotten even when faced with immediate challenges and invites the Scottish Government to explain how it will continue to direct its spend towards more preventative programmes.

102. It is likely that the Committee will look to build on the work begun during this inquiry by undertaking a more significant piece of work examining some of the proposed longer-term solutions such as preventative spending. The Committee expects to be able to formally launch its new inquiry before summer recess with its findings contributing to a legacy paper to be published before the end of the parliamentary session. The inquiry will also assist the Committee in its on-going work to understand more clearly the links between spending and outcomes.

103. Given the evidence provided by Professor Seddon and others, the Committee invites the Scottish Government to provide an assessment of how systems thinking can help to address the budget deficit.

7. The Government responded to these conclusions, stating—

“The Scottish Government welcomes the announcement of the Committee’s inquiry into preventative spending. The Scottish Government has for some time been leading a considerable body of work across a range of public services looking at what are often referred to as early or preventative

interventions, including in health, social care and education. Systems thinking is an established part of the policy development process undertaken by the Scottish Government. This is reflected in the budget decisions that are taken, for example in support of continuous improvements to patients' experience of treatment within the NHS, in ongoing reform of the criminal justice system, and in the consolidation within the Government Economic Strategy of measures and programmes that combine to provide optimal support to economic growth in Scotland.”

8. The **Session 4 Finance Committee** is not currently undertaking any specific work on the issue.

### **Public Petitions Committee consideration**

9. The Committee considered this petition at its meetings on [17 April 2012](#) and [26 June 2012](#). Following its meeting on 17 April 2012 the Committee sought views from the Scottish Government and a selection of local authorities and NHS Boards.
10. In general, the responses received from local authorities and health boards were supportive. The Scottish Government is supportive of “*effective engagement of employees in creating effective services*” but did not say whether it would review the research and undertake the comparison called for in the petition.
11. The Petitioner’s view is that none of the organisations addressed the fundamental request of the petition which was to identify the underlying assumptions of their organisations. At the Committee meeting on 17 April 2012 it was suggested that a roundtable discussion may be a „productive and informative” way to discuss the issues raised in the petition.

### **Action**

12. Following today’s evidence taking session the Committee is invited to consider what action it wishes to take in respect of this petition. There are a number of possible options, including—
  - (1) To continue the petition in order to seek any information.
  - (3) To take any other action which the Committee considers appropriate.
  - (4) To close the petition under Rule 15.7. If the Committee decides to close the petition it must state publicly its reasons for doing so.

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

## PE1438 on improving services for people with mental illness

## Note by the Clerk

**PE1438 – Lodged 1 October 2012**

Petition by Lynsey Pattie calling on the Scottish Parliament to urge the Scottish Government to provide improved mental health services for those people in hospital and who have been discharged after having a mental health problem, and to actively stop the stigma of mental ill-health to ensure that people with mental health problems do not feel ashamed of their feelings.

[Link to petition webpage](#)

**Purpose**

1. This is a new petition that the Committee is asked to consider and decide what action it wishes to take. The Committee has invited the petitioner to speak to her petition.

**Background – the following information is taken from the SPICe briefing**

2. The petition discusses a number of general concerns around the treatment of those diagnosed and treated with a mental health problem, the ongoing issue of associated stigma, waiting times for treatment, suicide and prevention of poor mental health. In particular the petitioner is concerned with the treatment of people whilst in hospital and their care plan after discharge, as well as the active steps that are taken to address the stigma of mental illness. This briefing provides a summary of key information, and should not be taken as being a comprehensive review of policy and services in this area.
3. Over the past thirty years or so mental health treatment has tended to move away from hospital based care to individuals receiving treatment in community settings.
4. It is estimated that there are up to 850,000 people with mental health problems at any one time in Scotland<sup>1</sup>. In terms of suicide, there has been a 17% reduction in suicides (19% for males and 9% for females) between 2000-02 and 2009-11. There were 772 suicides in 2011, that is, 14.5 per 100,000.<sup>2</sup> The male suicide rate is three times that for females.

<sup>1</sup> *The World Health Report 2001 – Mental Health: New Understanding, New Hope*, World Health Organisation, 2001.

<sup>2</sup> 772 is the suicide figure before the changes to the classification are included. From 2011, NRS implemented WHO changes to the classification of drug abuse deaths by "acute intoxication" - these would previously have been counted under "mental and behavioural disorders" but are now counted under "poisoning" and will therefore be counted as probable suicides. 889 is the suicide figure after the changes to the classification are included.



5. Audit Scotland carried out an [Overview of Mental Health Services](#) in 2009 which found that there was a need for better understanding of the care people receive and how resources to support this are best used. The key messages were:
  - There is higher risk of mental ill health for people in deprived areas
  - Management information on waiting times, staffing, and caseloads etc is needed
  - Evidence is needed to better assess community interventions and the associated use of resources
  - Individuals receive care from different agencies. Because of different information systems used by NHS Boards and Local Authorities, the ability to deliver joined up and responsive services is limited.
  - There is a recognition that there are wider costs associated with poor mental health
6. There is also a wide variation in the quality of services and staffing provision<sup>3</sup> across Scotland in terms of both the NHS and social care. The Scottish Government has acknowledged that there is a lack of consistency of service across Scotland and has been addressing many of the messages and recommendations of the Audit Scotland report in its current strategy (see below).

### **Scottish Government Action: Key Government Strategies**

7. [Delivering for Mental Health](#) 2006 and [Towards a Mentally Flourishing Scotland: Policy and Action Plan 2009 - 11](#) preceded the current [Mental Health Strategy for Scotland 2012 – 15](#). The former set out commitments, targets and action plans regarding mental health care improvement. The focus of the Strategy is mental health promotion and prevention of illness along with supported self-management for those with, or at risk of, poor mental health.
8. The [Mental Health Strategy for Scotland 2012 – 15](#) highlights seven themes for mental health, under the broader aims that mental health improvement are measured as being person-centred, effective and safe:
  - Working more effectively with families and carers: their involvement in policy development and service delivery
  - More peer to peer work and support: by trained staff who have recovered from poor mental health themselves
  - Increase in self help and self management: e.g. NHS 24 [LivingLife](#) Guided Self Help Service and [co-production](#), which is a relatively new way of conceiving the relationship between services, service providers and users whereby the expertise of the user becomes part of the process of service delivery and improvement.
  - Extending the anti-stigma agenda to cover further work on discrimination: within health services themselves as well as in the wider community

---

<sup>3</sup> Personal communication with the Scottish Government

- Focusing on the rights of those with mental illness: building on the principles within the [2003](#) Act.
- Developing an outcomes approach for personal and social as well as clinical outcomes
- Effective use of technology to provide information and evidence based services

## HEAT Targets

9. HEAT Targets are NHSScotland targets for performance in the areas of Health Improvement, Efficiency, Access to services and Treatment that is appropriate to the specific needs of patients.
10. There is a [HEAT](#) target to 'Deliver faster access to mental health services by delivering 18 weeks referral to treatment for Psychological therapies from December 2014'. This was approved by the Scottish Government in November 2010 for inclusion in HEAT from April 2011.
11. In 2009 another [HEAT](#) target was introduced stating that 'By March 2013 no one will wait longer than 26 weeks from referral to treatment for specialist Child and adolescent mental health services'. This was approved by the Scottish Government for inclusion in HEAT from April 2010.
12. In recognition of relatively high suicide statistics, a [HEAT](#) target was originally set out in 2002 under the [Choose Life](#) campaign to reduce the suicide rate between 2002 and 2013 by 20 per cent. Since 2002 a wide range of suicide prevention activity has taken place across Scotland both nationally and locally. This has included action by the NHS, Local Authorities and the voluntary sector.

## Campaigns and initiatives

13. The Scottish Government has advised that it recognises that stigma and discrimination still blight the lives of people with mental health problems, not only in the wider community, but in health care settings themselves and they are taking active steps to address this through various commitments contained in the current mental health strategy (see above). This includes a commitment for the Scottish Government to working with partners to develop a service response that focuses more on the distress of those who present to services in order to promote better engagement. This means working with all services that respond to people in distress such as the police, social workers, and staff in Accident and Emergency units for example.
14. [Choose Life](#) is the Scottish Government funded NHS Health Scotland's initiative to address suicide and self-harm. Their work includes public campaigns and the programme has co-ordinators within local authorities, NHS, not-for-profit organisations and other key organisations such as the police, prisons and universities. Scottish Government will soon begin an engagement process to develop a successor strategy to build on Choose Life.

15. There is a national campaign '[See Me...](#)' to end the stigma and discrimination associated with mental ill-health. It is an alliance of five Scottish mental health organisations: Scottish Association of Mental Health, Highland Users Group, Support in Mind Scotland, Penumbra and the Royal College of Psychiatrists – Scottish Division.
16. [Healthy Working Lives](#) is an NHS Health Scotland initiative which is aimed at improving overall health in the workplace, partly through an award scheme that supports employers and employees to develop health promotion and safety themes in the workplace. Under the [health promotion](#) information, stigma and discrimination around mental health is highlighted as a potential theme for employers to consider.

### **Review of the Mental Health Act**

17. The Mental Health Act 2007 was a major review of the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) legislation and covers those who enter hospital voluntarily and those placed under Compulsory Treatment Orders. A limited Review was carried out in January 2008 when the then Minister for Public Health, Shona Robison MSP, announced the establishment of a group, headed by Professor Jim McManus. It looked specifically at five areas: advance statements; independent advocacy; named persons; Tribunals; and, medical matters.
18. The review presented its [report](#) to Ministers in March 2009, and it included a number of recommendations, some of which require primary legislation. This led to the Scottish Government publishing a consultation in August 2009. It published its [response](#) in October 2010, and agreed that some topics would require primary legislation to amend the 2003 Act. It is expected that a Bill will be forthcoming during this Parliamentary session.

### **Scottish Parliament Action**

19. The Health and Sport Committee carried out an inquiry on [Child and Adolescent Mental Health Services \(CAMHS\)](#): The Committee [published](#) its report entitled [child and adolescent mental health and well being](#) on 23 June 2009. The Committee received a [response from the Scottish Government](#) to the findings and recommendations of this report on 31 August 2009. The Scottish Parliament held a [debate on the Committee's report](#) on 6 January 2010.
20. The Equal Opportunities Committee carried out a post-legislative scrutiny of The Mental Health (Care and Treatment)(Scotland) Act [2003](#) and reported to Parliament on 24<sup>th</sup> June 2010 and received a [response](#) from the Scottish Government on the 9<sup>th</sup> September 2010.
21. There have also been a number of other debates in Sessions 3 and 4 on mental health issues.

## Action

22. The Public Petitions Committee is invited to consider what action it wishes to take in respect of this petition. There are a number of possible options, including—

(1) To seek any information. For example, the Committee may wish to ask:

Scottish Government—

Scottish Association for Mental Health—

Scottish Recovery Network –

Royal College of Psychiatrists

Penumbra—

A selection of NHS Boards (Fife, Borders and Lothian)—

- What are your views on what the petition seeks?

(2) To refer the petition under Rule 15.6.2 to the Health and Sport Committee as part of its remit.

(3) To take any other action which the Committee considers appropriate.

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

### PE1439 on betting and loan shops in deprived communities

#### Note by the Clerk

#### **PE1439 – Lodged 1 October 2012**

Petition by Jonathan McColl calling on the Scottish Parliament to urge the Scottish Government to urgently review the correlation between the prevalence of betting shops and cheque cashing / pay day loan type shops on our high streets and in our communities, and high levels of poverty and deprivation and to use any evidence found in such a review to support the introduction of new planning powers for councils and other empowered authorities to refuse permission for premises of these types on the grounds of overprovision; when supported by robust statistical evidence of high levels of deprivation in communities to be served by such establishments.

[Link to petition webpage](#)

#### **Purpose**

1. This is a new petition that the Committee is asked to consider and decide what action it wishes to take. The Committee has invited the petitioner to speak to his petition.

#### **Background – the following information is taken from the SPICe briefing**

2. The petition is looking to examine two separate types of establishment – both betting shops and “cheque cashing/pay day loan type shops”. The current rules governing licences etc for both types of establishment are set out below

#### **Betting shops – Devolved competency and general framework**

3. Betting, gaming and lotteries are all matters reserved to Westminster (see schedule 5, head B9 of the Scotland Act 1998). The Scottish Parliament therefore has no power to act in this area but [Scottish Ministers have been granted certain powers under UK legislation](#).
4. The Gambling Act 2005 controls all forms of gambling in the UK. It set up a regime of operating, personal and premises licences required in relation to a gambling business. Operating and personal licences are granted by the Gambling Commission. Premises licences are granted by local authorities, through licensing boards (as established by the Licensing (Scotland) Act 2005) – although they are required to follow guidance issued by the Gambling Commission.
5. The 2005 Act sets out three objectives for the licensing regime, to which licensing authorities have to have regard. These are:

- preventing gambling from becoming a source of crime or disorder
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable people from being harmed or exploited by gambling.

### Current licensing regime

6. The general thrust of the Gambling Act 2005 is that licences should be granted unless there is a statutory basis for refusing to grant one. Guidance from the Gambling Commission follows this direction.
7. In the licensing regimes which existed before the 2005 Act, demand for gambling facilities was an important consideration. Licences were often objected to (and refused) on the basis that the applicant could not demonstrate unmet demand for their services. This links with the concerns expressed in the petition because it would have been possible to argue that, where a number of bookmakers already operated in an area, no unmet demand that would justify opening a new shop existed.
8. However, following a recommendation in the [“Gambling Review Report” \(2001\)](#), a policy decision was made to specifically remove requirements in relation to demonstrating demand in the 2005 Act. As a result, the 2005 Act contains provisions preventing both the Gambling Commission (see section 72(b)) and licensing boards (see section 153(2)) considering demand when making a decision on an application. This appears to have led to a situation where proliferation of bookmakers is difficult to prevent.
9. In its [“Guidance to Licensing Authorities – Third Edition”](#) (2009), the Gambling Commission sets out some relevant limits to local authority discretion when considering gambling premises licences. Local authorities must follow this guidance when reaching decisions. The guidance states that the Gambling Commission will have primary responsibility for considering the licensing objectives in relation to the prevention of crime and ensuring that gambling is conducted in a fair and open way.
10. The guidance also specifically states that, in relation to the licensing board’s role in the prevention of disorder (paragraph 5.16): —~~disorder~~ is intended to mean activity that is more serious and disruptive than mere nuisance”. It is further suggested that disorder is likely to require police assistance. This prevents licensing boards from regarding the proliferation of betting shops alone as creating disorder.
11. The guidance also places limits on a licensing board’s consideration of the objective of protecting children and vulnerable people from being exploited or harmed by gambling. It states that this means protecting children from taking part in gambling and restricting advertising so it does not appeal to children (paragraph 5.20). This prevents licensing boards from considering the proliferation of betting shops on its own as posing a risk to children. In relation to vulnerable adults, the guidance states that the Gambling Commission has not defined this group, but generally considers it to include people with problem

gambling habits and those who may not be able to make informed decisions in relation to gambling (for example, because of learning disability). When making licensing decisions, the licensing board is limited to considering whether there are risks for these types of people, rather than for the population generally.

12. It should be noted that it may still be possible for a licensing board to refuse to grant a licence on the basis that there are too many bookmakers in a particular area. However, this would have to be on the basis of evidence of specific disorder or risk to children or vulnerable groups.

### **Pay day loan shops - Devolved competency and general framework**

13. Payday lending is covered by the provisions of the Consumer Credit Act 1974, including the requirement to have a consumer credit licence issued by the Office of Fair Trading (OFT). The subject matter of the Consumer Credit Act 1974 is reserved to Westminster under Schedule 5, Head C7 Of the Scotland Act 1998. Neither the Scottish Parliament nor the Scottish Government have any power to act in this area.

### **Current licensing regime**

14. Consumer credit licences can be valid indefinitely or for a fixed period. A licence applicant must satisfy the OFT that they are a “fit person” to carry out the type of business they are proposing. In judging whether someone is a fit person, the OFT will consider their skills, knowledge and experience in relation to carrying out a consumer credit business. They will also look at whether the applicant, or any person involved in the business has:
  - committed an offence involving fraud, dishonesty or violence
  - previously contravened any provisions of the 1974 Act or other legislation governing similar financial relationships
  - practiced discrimination in the way they have carried out any previous business
  - engaged in business practices appearing to the OFT to be deceitful or oppressive or otherwise unfair or improper (whether unlawful or not).
15. The OFT publishes guidance ([“Irresponsible Lending – OFT Guidance to Creditors” 2011](#)) in relation to how it determines whether an applicant is a fit person.
16. The Consumer Credit Act 1974 contains a number of other protections for customers of consumer credit businesses, including payday lenders. These include information and advertising requirements (for example that the APR rate, representing the annual cost of credit, is clearly displayed) and protection for the debtor where any aspect of their relationship with the creditor is considered unfair.



## Overprovision under the Licensing (Scotland) Act 2005

17. The Licensing (Scotland) Act 2005 deals with the licensing of premises which sell alcohol. It contains requirements in relation to —~~over~~provision” which the petitioner would like to see extended to applications for betting shops and payday loan shops.
18. Local licensing boards are required to produce statements every three years detailing how they will exercise their functions, known as —~~licensing~~ policy statements”. The licensing policy statement must contain a statement as to whether there is —~~over~~provision” of licensed premises in any locality within the licensing board’s area. Overprovision can relate to licensed premises generally or a particular type of premises (for instance late night opening premises), and it is up to the licensing board to decide what constitutes a locality for the purposes of the assessment. Overprovision is one of the grounds on which a licensing board can refuse a licence.
19. The licensing board has a duty to carry out wide-ranging consultation prior to the formulation of an overprovision assessment. Factors which the licensing board may take into account in determining if overprovision exists include information from the chief constable, evidence of noise complaints or anti-social behaviour and data from health bodies, for example local accident and emergency departments.

## Scottish Government/ Scottish Parliament Action

20. Much action in both Scotland and at a UK level has focussed on betting shops specifically.
21. In September 2012, John Mason MSP led a [Members’ debate on the —Gambling Proliferation](#)”, the motion for which was—  

—~~that~~ the Parliament notes the recent comments made by the former Leader of the House of Commons, Harriet Harman MP, when she said that the previous UK administration had made a mistake by allowing an increase in the number of betting shops on the UK’s High Streets; further notes the study by Professor Jim Orford of the University of Birmingham, which suggests that, on average, richer areas have around five betting shops for every 100,000 people, whereas less well-off areas have up to twelve; believes that many forms of gambling are effectively a tax on the poor; understands that money spent on buying lottery tickets in poorer areas is considerably higher than that being invested back into these communities, and would welcome a review of the legislation on gambling in order to protect vulnerable people in Glasgow Shettleston and the rest of Scotland.”
22. In summing up the debate, Roseanna Cunningham MSP, Minister for Community Safety and Legal Affairs, set out the Government’s position—



—have mentioned our limited scope for action in Scotland, but ... I can confirm that the Scottish Government has already called on the UK Government to fund research, examine specifics such as the clustering of shops and take any necessary action. I am happy to provide an assurance that we will work with the Gambling Commission and others on those occasions where we do have a locus or simply to ensure that agencies work together to ensure better enforcement.”

23. The Answer to PQ S4-093356 also set out the legal position—

—Gambling is a reserved matter and the Scottish Government has no power to set limits on betting shop numbers.

Decisions about premises licences for betting shops must be made in accordance with the criteria set out in the Gambling Act 2005 and with regard to statutory guidance. Whilst the Civic Government (Scotland) Act 1982 offers the local authority the ability to designate an appropriate number of sex shops for a locality (and for that number to be zero), neither the Gambling Act 2005 or the Civic Government (Scotland) Act 1982 allows the same in relation to betting shops.”

#### **UK Government/UK Parliament action**

24. As noted in the Scottish Parliament motion above, Harriet Harman MP has recently raised the issue of betting shops in the publication, [—Blighting High Streets and Communities in Low-Income Areas](#)”. In terms of the issue of over-proliferation of betting shops, she states that—

—Under current planning laws, bookmakers have the same use class as banks, credit unions and estate agents, despite their very different socio-economic impact. This means that a betting shop can open in any premise that was previously a bank, credit union or estate agent without the need for planning permission. This takes away the power of the local community to have a say over the look and feel of their high streets and to prevent clustering of these shops.”

25. This issue has been prominent at a UK level for some time, leading on from [The Portas Review: —An independent review into the future of our high streets](#)”, which stated that—

—also believe that the influx of betting shops, often in more deprived areas, is blighting our high streets. Circumventing legislation which prohibits the number of betting machines in a single bookmakers, I understand many are now simply opening another unit just doors down. This has led to a proliferation of betting shops often in low-income areas.

Currently, betting shops are oddly and inappropriately in my opinion classed as financial and professional services. Having betting shops in

their own class would mean that we can more easily keep check on the number of betting shops on our high streets.”

26. However, [the UK Government response to the report](#) appeared to reject this proposition—

—“The planning system also provides a tool (Article 4 directions), to help local authorities and communities control certain uses, such as betting shops, by removing permitted development rights, and requiring a planning application to be made. Article 4 directions no longer need to be approved by the Secretary of State, making them more responsive to the needs of the local community.

The Government is committed to deregulation and we have undertaken a wider review of how change of use is handled in the planning system. **We worked with external partners and published an issues paper during 2011, which invited views and evidence from a range of organisations and individuals. This review will also form part of our thinking. We intend to consult on the emerging findings shortly.”**

27. In the Scottish context, planning is devolved, and the Scottish Government is currently [consulting on its National Planning Framework 3](#).
28. In terms of payday loan stores, while a lot of research appears to have been done on the loans and products offered by the companies, for example Consumer Focus’s report, [Keeping the Plates Spinning](#) and the OFT’s report, [Review of High Cost Credit](#), there appears to be limited research specifically on the location of payday loan stores.

## Action

29. The Public Petitions Committee is invited to consider what action it wishes to take in respect of this petition. There are a number of possible options, including—

(1) To seek any information. For example, the Committee may wish to ask:

The Scottish Government—

- Will you review the correlation between the prevalence of betting shops and cheque cashing / pay day loan type shops on our high streets and in our communities, and high levels of poverty and deprivation as called for in the petition?
- To what extent can overprovision of betting shops and cheque cashing/pay day loan shops be addressed through the planning process?
- Will you consider the issues raised in the petition as part of work you are undertaking in relation to National Planning Policy 3?

Gambling Commission—

Office of Fair Trading—  
Gambling Reform and Society Perception Group—  
Association of British Bookmakers—  
Consumer Focus—

- What are your views on what the petition seeks?

(2) To refer the petition under Rule 15.6.2 to the Local Government and Regeneration Committee as part of its remit.

(3) To take any other action which the Committee considers appropriate.

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

**PE1402 on a strategy and policy for diagnosing and treating adult ADHD in Scotland****Note by the Clerk****PE1402 – Lodged 15 September 2011**

Petition by Richard Jones on behalf of Addressing the Balance, calling on the Scottish Parliament to urge the Scottish Government to develop and instigate a strategy and policy for diagnosis and treatment for adult ADHD. For the estimated 60,000 adults with undiagnosed and untreated ADHD in Scotland, the adverse impact on their lives as a result of the condition and the huge and unnecessary costs to society is untenable.

[Link to petition webpage](#)

**Purpose**

1. This petition was last considered by the Committee at its meeting on 15 May 2012. At that time the Committee agreed to continue the petition to await publication of the Scottish Government's mental health strategy. The strategy was published over the summer and the Committee is asked to decide what action it wishes to take on this petition.

**Background – the following information is taken from the [SPICe briefing](#)***ADHD in Adults*

2. It is estimated that by the age of 25, 15% of people who had ADHD at the age of 18 will retain full symptoms and 65% will still present some symptoms that affect their daily lives. In adults the symptoms are poorly characterised but may include forgetfulness, poor organisational skills, an inability to focus or prioritise, an inability to deal with stress and mood swings. These symptoms may result in problems finding and keeping employment, problems with drugs, difficulties with relationships and social interactions and criminal behaviour. An estimated 10% of the prison population have ADHD<sup>1</sup>.
3. ADHD is a highly heritable condition, with children of adults who have ADHD being at increased risk of developing ADHD. This is particularly prominent in families where the parents' symptoms have persisted into adulthood.<sup>2</sup> ADHD may present on its own but is also commonly associated with other problems including clinical depression, bipolar personality disorder, anxiety, alcoholism and drug abuse.

---

<sup>1</sup> Chief Medical Officer for Scotland's Annual Report 2009

<sup>2</sup> ADHD in Adults: How to Recognize – and Treat; Consultant, vol. 48 no. 12

*Guidelines and Treatment*

4. SIGN Guideline 112 covers the ‘*Management of attention deficit and hyperkinetic disorders in children and young people*’ in Scotland but does not extend to adults. NICE Clinical Guideline Number 72 (CG72) covering England and Wales deals with the ‘Diagnosis and management of ADHD in children, young people and adults’ and a supplementary commissioning guide for a ‘service for the diagnosis and management of ADHD in Adults’, but no similar guidance covering adults has been issued in Scotland. CG72 recommends drug treatment as the first approach unless the patient prefers psychological treatments.
5. Treatments in child health services in Scotland are well defined, but in adult services they have been less clear and transition between these services as ADHD patients reach adulthood are sometimes problematic. In 2009, the Chief Medical Officer for Scotland’s Annual Report contained a section on ADHD in adults, stating that:

*“Each year around 500 Scottish teenagers with active ADHD leave under 18’s services, having received a lot of help and support. Because ADHD is under-diagnosed in Scottish children, this figure is less than half what it should be. They move on to services for over 18’s where ADHD is at best an unfamiliar diagnosis and at worst its existence is denied.”*

*Adult Services*

6. In 2007, NHS Quality Improvement Scotland (now Healthcare Improvement Scotland) published a document on ADHD services in Scotland. At that time it was found that:

*“None of the NHS board areas profiled have formalised NHS board-wide arrangements in place for transition of young people with ADHD to adult services. In practice, transition is managed on a case-by-case basis, generally through liaison and negotiation between paediatric services and/or CAMHS and adult mental health services. Similarly, there are no dedicated services for adults with ADHD in Scotland, although two NHS board areas do have adult psychiatrists with a special interest and some of the other NHS boards reported emerging interest within adult psychiatry and general practice.”*

7. Since the publication of that report, the Lothian Adult ADHD Service has been set up by NHS Lothian. This clinic operates at the Royal Edinburgh Hospital and is primarily for patients living within the Lothian area, but it may also accept patients who are referred from other areas of Scotland. This is the first and currently only dedicated NHS service for adults with ADHD in Scotland.

**Public Petitions Committee consideration**

8. The Committee sought evidence from the Scottish Government, NHS Lothian and from local authorities on their levels of awareness of adult ADHD and what services they provide for individuals with ADHD.
9. The health board responses set out what was happening locally and the different approaches taken. On the basis of the responses, the view of the petitioner was

that the central strategy seemed unclear. The Scottish Government did not intend to conduct a thematic review (as called for by the petitioner) but has now published a [Mental Health Strategy for Scotland 2012 – 2015](#).

10. The strategy acknowledges that work is needed to improve diagnosis of and response to Attention Deficit Hyperactivity Disorder (ADHD); that work within NHS Lothian has established that people with ADHD are increasingly presenting to adult mental health services, and that there are inconsistencies within mental health services in terms of response. The strategy formally commits to undertake work to develop appropriate specialist capability for neurodevelopmental disorders (such as ADHD) as well as to improve awareness.

### **Action**

11. It is suggested that as the Scottish Government's mental health strategy has now been published, and that a commitment has been given to develop appropriate specialist capability, that the petition be closed.

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

## PE1412 on bonds of caution

## Note by the Clerk

**PE1412 – Lodged 14 November 2011**

Petition by Bill McDowell calling on the Scottish Parliament to urge the Scottish Government to amend the law of succession to end the requirement for a Bond of Caution by an executor-dative when seeking confirmation of any intestate estate.

[Link to petition webpage](#)

**Purpose**

1. This petition was last considered by the Committee at its meeting on 4 September 2012. The Committee agreed to write again to the Scottish Government seeking a clear response on when a decision would be taken about bonds of caution. The Scottish Government's response has been received and the Committee is invited to decide what action it wishes to take on this petition.

**Background – the following information is taken from the [SPICe briefing](#)**

2. The law of succession is concerned with the distribution of the property of a person who has died. It is divided into two parts – intestate succession (covering the situation where no will is left) and testate succession (where a will is left).

3. An ~~—ex~~ecutor" is the person responsible for gathering in the property of the deceased person and then distributing it to those entitled to inherit it. An executor appointed by a will is an ~~—ex~~ecutor-nominate", an executor appointed by a sheriff (as occurs when someone dies intestate) is an ~~—ex~~ecutor-dative".

4. Before being confirmed by the court, an executor-dative is required to take out a ~~—bond~~ of caution".<sup>1</sup> A bond of caution is an obligation by a third party, ~~the~~ cautioner", to indemnify any creditor or beneficiary of an estate against loss caused by maladministration, negligence or fraud on the part of the executor. It is usually provided by an insurance company, although it can also be provided by a private individual.

5. A bond of caution provides protection in those cases where suing the executor would not provide an effective legal remedy, for example because the executor has disappeared or is unable to meet the legal claims arising. However, where the insurance company is providing caution, the estate will bear the cost of the associated premium. Only two insurance companies currently provide bonds of caution (Zurich SGS and Royal & Sun Alliance (RSA)) and it has been suggested

---

<sup>1</sup> SPICe has referred to the term in lower case, reflecting the Scottish Law Commission's publications on the topic. Caution' is pronounced to rhyme with nation'.

that monopoly of provision has a negative effect on the quality of service, as well as the level of premium charged.<sup>2</sup>

6. The Scottish Law Commission (SLC) undertook a detailed review of the law of succession (including bonds of caution) publishing a [Discussion Paper](#) (DP 136) in 2007 and a final [Report](#) (Scot Law Com No 215) in 2009. In the final report, the SLC made a number of recommendations relating to bonds of caution. In particular, after an “overwhelming response” in support of such a move (SLC Report, para 7.11), the SLC recommended abolition of the requirement on an executor-dative to obtain caution before obtaining confirmation (recommendation 66). The SLC further recommended that this change should only take effect in relation to deaths occurring on or after the implementing legislation in question comes into force (recommendation 78).

### *Scottish Government Action*

7. The Scottish Government [responded](#) to the SLC’s Report in July 2009. In relation to the bonds of caution, the Scottish Government commented:

“We are grateful to the Commission for also reviewing the law on executors dative and the requirement for Bonds of Caution. The recommendation is that these should no longer be required and that the court should have the discretion to refuse to appoint executors. We understand this recommendation was positively received. There are, however, a couple of issues which will need to consider further, including the impact on the insurance market for Bonds of Caution”

8. In November 2011 Scottish Government officials set out the petition as follows:

“The Scottish Government has undertaken a period of pre-consultation dialogue on a number of the potentially contentious recommendations contained in the Scottish Law Commission’s Report on Succession. This included discussion on the abolition of the requirement for caution by executors-dative and on how to mitigate any risk to the estate. That dialogue will inform consideration of how best to take this, and other issues, forward in a public consultation which would precede any reform of the law.

Progress on this work has been slower than anticipated because of the need to respond to other pressures.”

### *Scottish Parliament Action*

9. A public petition ([PE1134](#)) was submitted in March 2008 by the current petitioner calling for an end to the requirement for a Bond of Caution. That petition was closed in April 2008 on the grounds that the Scottish Law Commission was at that time considering responses to its Discussion Paper on its review of succession law and was not due to report on this until early 2009. The Public Petitions Committee forwarded the petition to the Commission for information as part of that review.

---

<sup>2</sup> Scottish Law Commission, Discussion Paper on Succession (DP 136), pages 110–111.



10. Succession law has been the topic of a number of Parliamentary Questions since 2009, including most recently:

**Question S3W-29780 - Ian McKee (Lothians) (Scottish National Party) (Date Lodged 07/12/2009) :** To ask the Scottish Executive what plans it has to take action in response to the Scottish Law Commission reports on succession and on damages.

**Answered by Fergus Ewing (08/12/2009):** The Scottish Law Commission has produced helpful reports on succession and on damages. The Commission's report on Succession (No.215, 2009) was published on 15 April and, having provided the Scottish Government's initial response on 13 July, I subsequently met with the chairman of the commission to discuss its proposals. The intention now is to engage with stakeholders, through a programme of dialogue and formal consultation, so that determination of the way forward can take account of all relevant perspectives, including any potential financial and regulatory implications. Similar integrated work is being developed in relation to damages for personal injury, bringing together the Commission's report on Damages for Psychiatric Injury (No.196, 2004), their Report on Personal Injury Action: Limitation and Prescribed Cases (No.207, 2007) and their report on Damages for Wrongful Death (No.213, 2008).

**Oral Question selected for answer on 21 January 2010:**

**Rob Gibson (Highlands and Islands) (SNP):** To ask the Scottish Government what plans it has to legislate in relation to the Scottish Law Commission's "Report on Succession", published in April 2009. (S3O-9233)

**The Minister for Community Safety (Fergus Ewing):** The "Report on Succession" recommends significant reforms to the law. I provided an initial response in July. Subsequently, in answer to a parliamentary question from Ian McKee, I confirmed that I had also met the commission's chairman. The Scottish Government is now having a dialogue with and consulting stakeholders to inform the way forward. Plans for legislation will be finalised in the light of that work, taking account of all relevant perspectives.

**Rob Gibson:** Succession was last legislated on in the 1960s, and indeed the Scottish Law Commission's 1990 review was not acted on in the Parliament's first eight years. I am delighted with the indicated timetable, which I presume means that an answer will emerge only after 2011. However, it is important that, as far as equality in family law is concerned, the interpretation of heritable property succession rights is legislated on as early as possible.

**Fergus Ewing:** Rob Gibson is entirely correct to say that the current law rests on the Succession (Scotland) Act 1964, which, although it has served Scotland well, now needs considerable updating. We hope to take that forward through consultation, and in that regard I am delighted that the Justice Committee has responded positively to my suggestion of meeting the commission informally to discuss the report. Given the complexity of the issues, not least the recommendation to abolish the distinction between heritable and movable property—something, indeed, that Rob Gibson raised in his member's bill in 2006—the widest consultation should be carried out to ensure that we maintain a consensual approach. With that in mind, it is more likely than not that legislation will emerge only after the end of this parliamentary session.

**Bill Aitken (Glasgow) (Con):** Like everything else that comes before the Justice Committee at the moment, the matter is complex. However, does the minister agree

that a degree of urgency is needed, given that, apart from anything else, the 1964 act was predicated on the concept of the so-called nuclear family, which, of course, is quite different from the realities of modern life?

**Fergus Ewing:** I am sure that the convener of the Justice Committee bears up well under the heavy burdens that rest on his shoulders. I entirely agree with his sentiment that there be a degree of urgency. However, given the range of issues involved, the nature of the SLC's specific recommendations and issues arising from the different family background that the member correctly referred to, we advocate an approach based on the maxim *—Festina lente*<sup>3</sup>.

### Committee consideration

11. The Scottish Government is committed to a formal public consultation on succession law and had indicated that it hoped to consult by the end of this year. It has also been considering whether it would be feasible to —~~de~~construct the Commission's package of recommendations in order to progress selected elements separately”.

13. The Scottish Government's view on bonds of caution is that there is not complete agreement on the way forward. In any event, changes to the law on bonds of caution would require primary legislation. The reason for this is that the current provision is contained in primary legislation and could only be repealed (or amended) by way of further primary legislation. The requirement for an executor dative to obtain a bond of caution is contained in the Confirmation of Executors (Scotland) Act 1823 and the Act does not include powers to abolish the requirement for caution by subordinate legislation. Without such a power changes can only be effected by primary legislation.

14. In her most recent update of 17 October 2012 the Minister for Community Safety advises that the work on succession remains under consideration. She is not able to give a timeframe for any decision on whether and which issues could be progressed separately. The petitioner's most recent letter of 27 October 2012 notes his continued disappointment with the lack of progress.

### For decision

16. The Committee is invited to consider what action it wishes to take in respect of this petition. There are a number of possible options:

- (1) To await publication of the Scottish Government's consultation on succession law and consider what action to take at that time.
- (2) To refer the petition, under Rule 15.6.2, to the Justice Committee to consider the issue raised.
- (3) To take any other action which the Committee considers appropriate.

---

<sup>3</sup>i.e. to do things the proper way instead of in a hurry.

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

PE1415 on updating the Burial Grounds (Scotland) Act 1855

## Note by the Clerk

**PE1415 – Lodged 24 January 2012**

Petition by John Steele calling on the Scottish Parliament to urge the Scottish Government to update the Burial Grounds (Scotland) Act 1855.

The petitioner believed that a mass grave containing human remains from HMS Dasher exists in Ardrossan Cemetery. He requested that the local authority conduct a full search and exhumation but was advised that due to the restrictions on exhumations in the 1855 Act this would not be possible. That was the driver behind the petition.

[Link to petition webpage](#)

**Purpose**

1. This is a current petition which the Committee last considered at its meeting on [4 September 2012](#). The Committee agreed to invite the Scottish Government to consider the issues raised in the petition as part of the work of the burial and cremation review group. A response from the Scottish Government has been received and the Committee is asked to decide what action it wishes to take on the petition.

**Background** – the following information is taken from the [SPICe briefing](#)

2. There is little regulation of burial in Scotland, although the common law (traditional and judge-made law) governs aspects of interment. The Burial Grounds (Scotland) Act 1855 is the primary statute, and it regulates the setting up and management of burial grounds.
3. The 1855 Act does not regulate excavations or disinterment as suggested by the petitioner. This matter is instead dealt with by the common law. However, because many of the major cases are from the 19<sup>th</sup> century, it is unclear how the principles would be applied by a modern court.
4. According to the Stair Memorial Encyclopaedia (paragraph 534)<sup>1</sup>, buried remains are sacred, and the grave that they are buried in is protected from disturbance at least until the process of disintegration is complete (although no specific time period is given for this process). Disinterment (other than in situations governed by planning law or criminal investigations) is allowed only in three situations:
  - where those responsible for the management of the burial ground find it necessary

---

<sup>1</sup> The Stair Memorial Encyclopaedia is an (but not the only) authoritative statement on Scots law.

- where the burial has taken place somewhere where there is no right of burial
  - where the court gives its authority to do so having been persuaded that such a course is required
5. An article published by Historic Scotland<sup>2</sup> suggests that a court order is more likely to be obtained if there are no objections from living relatives. It notes that, at the time it was published in 1997, there was no reported case of a warrant being granted to disinter remains for archaeological, educational or scientific purposes.
  6. It is therefore likely that the practical situation would be broadly similar to that outlined in the petition – ie. that a court order would be required, that procedures would have to show reverence and respect and that the excavation may have to stop if human remains were discovered.

### Scottish Government Action

7. The Scottish Government commissioned a review of burial and cremation legislation in Scotland which resulted in the publication of the "[Burial and Cremation Review Group Report and Recommendations](#)" (2008). The Scottish Government has since consulted on the recommendations in its "[Consultation Paper on Death Certification, Burial and Cremation](#)" (2010).
8. The review and consultation put forward new proposals in relation to the disinterment of remains. However, these focus on a simplified process for relatives to request disinterment and do not deal with the issue of excavation for other purposes. At least one of the responses to the consultation (from the [Institute of Archaeologists](#)) raised the issue of excavations in passing, although it was not highlighted in the [analysis of responses](#).
9. The Scottish Government has taken forward aspects of the work of the review group in the [Certification of Death \(Scotland\) Act 2011](#). However, this did not deal with burial or disinterment.

### Scottish Parliament Action

10. The Scottish Parliament passed the Certification of Death (Scotland) Act 2011 mentioned above. However, this did not include the aspects of the review which dealt with burial and disinterment. There have been a number of questions asked in the Scottish Parliament on the issue of burial grounds. None of these deal with the specific matter raised by the petitioner.

---

<sup>2</sup> Logie, J. (1992) "The Legal Position relating to the Treatment of Human Remains: Scots Law". Reproduced in Annex A of Historic Scotland. (1997) *The Treatment of Human Remains in Archaeology: Historic Scotland Operational Policy Paper 5*. Edinburgh: Historic Scotland. Available at: <http://www.historic-scotland.gov.uk/human-remains.pdf>

## Public Petitions Committee consideration

11. The Committee considered the petition at its meetings on [15 February 2012](#), [15 May 2012](#) and [4 September 2012](#). Information was sought from the Scottish Government on how the excavation of land within cemeteries is regulated and on the work of the Burial and Cremation Review Group (the Review Group).
12. The Scottish Government was unable to identify any regulations relating to the excavation of burial grounds; however its understanding is that this would not mean local authorities could permit mass excavation without an application to the Sheriff Court. The Scottish Government confirmed that the remaining recommendations of the Review Group, in particular those relating to a new streamlined process for exhumations, would be taken forward in due course.
13. In a letter of 4 October 2012 the Scottish Government confirms that it will explore the possibility of including the issues raised by the petitioners as part of the future activity of the Review Group. The Scottish Government's most recent response is attached:
  - PE1415/G: Scottish Government response of 4 October 2012
14. In relation specifically to Ardrossan Cemetery (which was the reason for the petitioner bringing the petition) there was recent [news coverage](#) of the recent archaeological excavation. This followed approval having been granted by the court. Subsequent [reports](#) indicated the search had been unsuccessful and no evidence of a grave site was found.

## Action

15. It is recommended that the Committee should now close this petition on the grounds that (1) the Scottish Government has agreed to take forward the issues raised as part of the future work of the burial and cremation review group and (2) the excavation of Ardrossan Cemetery has now taken place.

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

## PE1425 on the adverse impact of DVLA local office closures

## Note by the Clerk

**PE1425 – Lodged 13 March 2012**

Petition by Maureen Harkness, Jane McIntyre, Duncan McGrouther, Brian Fraser, Ryan MacDonald, Scott Robertson and Joy MacKenzie calling on the Scottish Parliament to urge the Scottish Government to make representations to the UK Government in relation to the future of all five DVLA local offices in Scotland given the adverse impact that the closure of any or all the offices would have on the economy, safety and customer service to all Scottish residents.

[Link to petition webpage](#)

**Purpose**

1. This petition was last considered by the Committee at its meeting on [4 September 2012](#). The Committee agreed to write to the Parliamentary Under Secretary for State for Transport inviting him to give oral evidence. The Committee also agreed to seek further information from the Scottish Government and the views of the Scottish Motor Trade Association.

**Background – the following information is taken from the [SPICe briefing](#)**

1. Approximately 2.5 million customers use over-the-counter services provided by local DVLA offices in the UK each year, primarily for vehicle registration and licensing, tax disc distribution (to motor dealers), trade licensing, vehicle inspections and personalised registrations.
2. The UK Department for Transport (DfT) launched a consultation exercise on the 13 December 2011, [Transforming DVLA services](#), in which it set out proposals to move the DVLA away from ‘a largely paper based organisation to a modern, highly efficient electronic business’. Central to the consultation were plans to close all 39 local DVLA offices in the UK, five of which are in Scotland.
3. The consultation closed on the 20 March 2012. According to the DVLA there were 919 responses. More than half of these were submitted by private individuals, and another third came from car dealers. The impact assessments were published in July 2012 alongside the results of the consultation:  
[http://www.dft.gov.uk/dvla/consultations/response\\_to\\_transformation.aspx](http://www.dft.gov.uk/dvla/consultations/response_to_transformation.aspx)
4. The most obvious impact will be felt by those employed in local offices. According to the PCS, if implemented local office closures could lead to the loss of a total of 119 jobs in Scotland in 5 offices in Scotland.

5. The concerns of some in the motor trade were voiced by MPs during a recent House of Commons debate, suggesting that the closure of local DVLA offices will make it more difficult for car dealers to register newly sold cars. Similar concerns are echoed in an e-petition submitted by vehicle convertor, Richard Penning, to the UK Government, which received over 3,500 signatories.
6. In response, the Parliamentary Under-Secretary of State for Transport, argued that: 'What we are proposing will be more efficient. It will not be a case of putting documents in the post and losing blank tax discs. We will use a secure system, and speed will be subject to a contract. Delivery will be the following day, and it may sometimes be possible to offer same-day delivery' ([Hansard](#), 7 March 2012, Column 299WH).

### **Scottish Government Action**

7. As the DVLA is a reserved agency of the UK's Department of Transport, the Scottish Government has no powers to legislate in this area.

### **Scottish Parliament Action**

*Motion: Proposed DVLA Closures*

[Motion S4M-01574: Kevin Stewart, Aberdeen Central, Scottish National Party, Date Lodged: 13/12/2011](#)

That the Parliament condemns the UK Government's proposals to close Scotland's five Driver and Vehicle Licensing Agency (DVLA) regional offices; disagrees with the opinion that centralising services in Swansea will mean a quicker turnaround time that will meet customer needs, and calls on the UK Government to retain the offices in Aberdeen, Dundee, Edinburgh, Glasgow and Inverness.

### **Committee consideration**

8. The Committee considered this petition at its meetings on [1 May 2012](#) and [4 September 2012](#).
9. The Scottish Government shares the petitioners' concerns about the enforcement of vehicle crime and has raised the matter with the UK DfT. In February 2012 the Scottish Government wrote to the UK Government and Transport Scotland officials have met with DfT regarding the closure proposals and consultation.
10. The outcome of the consultation on the closures was announced by the Parliamentary Under Secretary of State for Transport in a [written statement](#) on 4 July 2012. He confirmed that the DVLA would press ahead with its proposals. DVLA enforcement operations will be centralised by March 2013 and its 39 local offices will close by the end of 2013.
11. At its meeting on 4 September 2012 the Committee agreed to invite the Parliamentary Under Secretary for State for Transport to invite him to an evidence session. The Committee also agreed to seek further information from

the Scottish Government and to seek the views of the Scottish Motor Trade Association. The following responses have been received:

- PE1425/C: Scottish Motor Trade Association Letter of 5 October 2012
- PE1425/D: Transport Scotland Letter of 10 October 2012
- PE1425/E: Department for Transport Letter of 22 October 2012
- No response from petitioner

12. The UK Parliamentary Under Secretary for State for Transport's declined the Committee's invitation. A list of Post Offices and the services available has been provided – there are currently 546 Post Offices in Scotland with the facility to issue vehicle licenses and 73 'outreach' Post Offices that offer vehicle licensing facilities.
13. The DVLA is currently considering bids for a new front office counter service contract. Two bidders remain and no announcement has been made as yet.
14. The Scottish Government continues to engage with the DVLA and the UK DfT about the proposals and will be writing to set out its objections to the closures and any compulsory job losses. On the issue of vehicle crime, the DVLA has advised the Scottish Government that enforcement for licences, insurance and tax discs is carried out almost entirely from its central office.
15. The Scottish Motor Trade Association, although having reservations on the specifics of the proposed changes, is supportive in general terms of the direction of the changes. It states: *"it is worth noting that despite opinion to the contrary many of our member dealers are not satisfied with the service currently provided by LVLO's"*. Its view is that the new LVLO contract it will provide greater coverage and more accessibility for both motor dealers and consumers. It estimates that up to 200 Post Offices (or equivalent outlets) will provide a better service than 5 LVLO's.

## Action

16. The Committee is invited to consider what action it wishes to take in respect of this petition. There are a number of possible options, including—
  - (1) To seek any further information the Committee considers necessary.
  - (2) To refer the petition under Rule 15.6.2 to the Infrastructure and Capital Investment Committee, for further consideration of the issues raised.
  - (3) To take any other action which the Committee considers appropriate.
  - (4) To close the petition under Rule 15.7. If the Committee decides to close the petition it must state publicly its reasons for doing so. In this case a reason may be:
    - The UK Government has confirmed its intention to proceed with the closure of the 5 DVLA local offices in Scotland. The Scottish



Government has provided assurances that it is continuing to make representations to the UK Government about its plans.

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

## PE1426 on the establishment of a National Donor Milk Bank Service

## Note by the Clerk

**PE1426 – Lodged 21 March 2012**

Petition by Donna Scott calling on the Scottish Parliament to urge the Scottish Government to ensure equal access to donor breast milk for all premature and sick babies, irrespective of geographical location, by establishing a national donor milk bank service.

[Link to petition webpage](#)

**Purpose**

1. This is a current petition last considered by the Committee at its meeting on [4 September 2012](#). The Committee agreed to write to NHS Greater Glasgow for an update following the meeting with other NHS Boards on 15 August 2012. A response has been received and the Committee is now asked to decide what action it wishes to take on the petition.

**Background – the following information is taken from the [SPICe briefing](#)**

2. There is considerable evidence to demonstrate the short and long term benefits of breastfeeding for both for mothers and infants<sup>1</sup>. The [World Health Organisation](#) recommends exclusive breastfeeding up to 6 months of age. For pre-term babies the recognised benefits of breast milk include reduced time on parenteral nutrition (the intravenous administration of nutrients), reduced risk of infection, and reduced risk of necrotising enterocolitis (NEC<sup>2</sup>)<sup>3</sup>.

*Milk banks*

3. Milk banks collect and store expressed breast milk. Breast milk is expressed by donors, with babies under 6 months old, who are pre-screened using health and lifestyle questionnaire and blood virology screening. The donated milk is pasteurised before being used. Donated breast milk is often used for unwell or premature babies whose own mothers cannot breast feed them<sup>4</sup>. There are 17 milk banks across the UK, one is in Scotland. All milk banks are members of the [United Kingdom Association for Milk Banking](#).

<sup>1</sup> Scottish Government (2011) [Improving Maternal and Infant Nutrition: A Framework for Action](#)

<sup>2</sup> NEC is a serious illness in which tissues in the intestine become inflamed and start to die. This can lead to a perforation developing which allows the contents of the intestine to leak into the abdomen and can cause a very dangerous infection. [Great Ormond Street Hospital for Children](#) (2002).

<sup>3</sup> NHS Greater Glasgow and Clyde (2012) Information on a proposed National Donor Milk Bank service for Scotland. Unpublished.

<sup>4</sup> BabyCentre (2011) [Milk Banking](#)

4. The National Institute for Clinical Excellence (NICE) has published guidelines on donor breast milk banks. However, clinical guidelines published by NICE have no formal status in Scotland and are for information only. In Scotland the Scottish Intercollegiate Guidelines Network develops guidelines that contain recommendations for effective practice in the NHS in Scotland based on current evidence. It is not intending to publish guidelines on milk banks.

#### *NHS Greater Glasgow and Clyde Donor Milk Bank*

5. The NHS Greater Glasgow and Clyde Donor Milk Bank was established in 1978. The milk bank provides donor breast milk for infants within its neonatal services. It also provides donor milk, on request, for neighbouring health boards. The service has expanded significantly in the past 2-3 years both in the processing of donor milk and the number of babies who receive milk:

	<b>Pasteurised litres</b>	<b>Donors</b>	<b>Recipients</b>
<b>2008</b>	102.8	35	32
<b>2009</b>	317.15	42	84
<b>2010</b>	263.5	45	89
<b>2011</b>	427.35	64	104

Source: NHS Greater Glasgow and Clyde (2012).

#### *Donor milk across Scotland*

6. Information received from NHS Greater Glasgow and Clyde notes that there has been an increasing and significant level of interest in donor milk across Scotland. The NHS Greater Glasgow and Clyde Donor Milk Bank has been able to meet the informal demand from neighbouring health boards to access donor milk for the most vulnerable infants. In 2011/12 Greater Glasgow and Clyde used 150.8 litres of donor milk, NHS Lanarkshire used 14 litres, NHS Ayrshire and Arran used 2 litres and NHS Lothian used 14.6 litres. In 2011 40.6% of donors came from outwith the NHS Greater Glasgow and Clyde board area. [The Scottish Emergency Rider Volunteer Service](#) (ScotsERVS) currently transports donor milk to requesting units and collects milk from donor's homes<sup>3</sup>.

#### *Scottish Government Action*

7. In January 2011 the Scottish Government published Improving Maternal and Infant Nutrition: A Framework for Action. Alongside this the Government launched the Breastfeeding: Feel Good Factor website. This website has a section on the health benefits for babies and in particular for pre-term babies.

## Public Petitions Committee Action

8. The Committee considered the petition at its meeting on [1 May 2012](#), and took evidence from the petitioner. The Committee considered the petition again on [4 September 2012](#).
9. Responses from health boards have indicated general support for 'equitable availability' of donor breast milk throughout Scotland and a preference for a national donor milk bank service instead of each NHS Area Health Board maintaining its own. The petitioner and the United Kingdom Association for Milk Banking agreed that the existing service at Glasgow would be an ideal base for the development of a national service.
10. NHS Greater Glasgow and Clyde has undertaken early work on a business case and options proposal on the development of a national service. Costs will vary depending on the model chosen and the number of Boards participating in the service. NHS Greater Glasgow and Clyde has concluded that for every 8 extremely pre term infants fed breast milk, one less case of surgical necrotising enterocolitis per year is achievable and that one less case per year would easily fund a national donor milk service in Scotland.
11. A dialogue has commenced with other Boards about developing a national service and a meeting was held on 15 August 2012: <http://www.bbc.co.uk/news/uk-scotland-19255222>. A report of that meeting is attached:
  - PE1426/J: NHS Greater Glasgow and Clyde letter of 4 October 2012
  - PE1426/I: Petitioner letter of 1 November 2012
12. The Boards reached agreement on the way forward and agreed various action points. The petitioner is pleased with the outcome of the first exploratory meeting and asks that the petition be kept open while further work takes place.

## Action

13. The Committee is invited to consider what action it wishes to take in respect of this petition. There are a number of possible options, including—
  - (1) To seek any further information the Committee considers necessary.
  - (2) To refer the petition under Rule 15.6.2 to the Health and Sport Committee, for further consideration of the issues raised.
  - (3) To take any other action. It is recommended that the Committee should schedule this petition for consideration again in the Spring and seek an update on progress for then.

## Public Petitions Committee

16th Meeting, 2012 (Session 4), Tuesday 13 November 2012

### PE1428 on improvements for the A83

#### Note by the Clerk

#### **PE1428 – Lodged 29 March 2012**

Petition by Councillor Douglas Philand on behalf of Argyll First calling on the Scottish Parliament to urge the Scottish Government to address the 4 key points which are currently impacting upon the communities along the A83 which are (1) issues relating to the Rest and Be Thankful; (2) pinch points at Inveraray and between Lochgilphead and Tarbert (Lochfyne); (3) safe crossing points at Ardrishaig and Tarbert (Lochfyne), and (4) formally trunk the road between Kennacraig and Campbeltown.

[Link to petition webpage](#)

#### **Purpose**

1. This is a current petition which the Committee last considered at its meeting on [4 September 2012](#). At that meeting the Committee agreed to seek further information from the Scottish Government / Transport Scotland. A response has been received and the Committee is asked what action it wishes to take on the petition.

#### **Background – the following information is taken from the [SPICe briefing](#)**

2. The A83 is a trunk road for the 66 miles between Tarbet and the ferry port of Kennacraig and a local road for the 32 miles between Kennacraig and Campbeltown. Trunk roads are owned by Scottish Ministers and managed by Transport Scotland. The day to day maintenance of each trunk road is carried out by a Trunk Road Operating Company, in the case of the A83 this is [Scotland TranServ](#). Local roads are the responsibility of the relevant local authority, in this case Argyll and Bute Council.
3. The Rest and be Thankful is the summit of the pass on the A83 trunk road between Arrochar and Inveraray, an area that is particularly prone to landslips. The A83 has been closed at the Rest and be Thankful due to landslips in February 2012, December 2011, September 2009 and October 2007. The closure of the A83 at the Rest and be Thankful results in motorists having to take a lengthy diversion.

#### **Scottish Government Action**

4. Transport Scotland [announced](#) an investment of £1m to help tackle landslips at the Rest and be Thankful on 9 February 2012. This followed an [announcement](#) on 20 January 2012 of detailed investigations into longer term measures to prevent/mitigate landslips at the Rest and be Thankful and into removing pinch points and improving pedestrian safety along the A83. Further information on

landslip monitoring and mitigation work taken by Transport Scotland at the Rest and Be Thankful since 2007 is available [online](#).

5. Keith Brown MSP, Minister for Housing and Transport, indicated on 14 March 2011, in response to PQ S3W-40142, that “Scottish Ministers keep the trunk road network under continual review. There are no plans to trunk the A83 road between Kennacraig and Campbeltown”.

### **Scottish Parliament Action**

6. The Scottish Parliament has not undertaken any substantive work on the improvement of the A83.

### **Public Petitions Committee Action**

7. The Committee first considered the petition at its meeting on [15 May 2012](#). It heard evidence from the petitioner and sought written submissions from key stakeholders.
8. Transport Scotland confirmed that it was undertaking a detailed study and investigation of mitigation works including potential contingency measures and solutions in relation to landslips and safety issues on the route. The work had been due for completion in Autumn 2012. The study covers the first 3 points of the petition. In relation to the 4<sup>th</sup> point, Transport Scotland has no plans to extend the A83 trunk road from Kennacraig to Campbelltown but would be willing to review the situation should any fresh information become available.
9. Transport Scotland also provided details of a 2009 economic evaluation of the impact of landslips at the Rest and Be Thankful area. It indicated that at 2008 prices the cost of the road being closed for 12 days was approximately £320,000 and involved disruption to approximately 40,000 journeys. An „emergency route” is being created for use in the circumstances of further landslips on the A83 and in particular when the A82 is also closed.
10. Argyll and Bute Council and Highlands and Islands Enterprise both support the petition and agree that freight transport organisations are “*significantly dependant on the conditions of the road network to transport locally produced goods such as whisky, timber and wind turbines all of which are vital to the local economy*” and that while there may be alternative routes these add significant time and distance to journeys.
11. At its meeting on [4 September 2012](#) the Committee agreed to write to the Minister for Transport and Veteran Affairs seeking further information about the work that is ongoing. The following responses have been received:
  - PE1428/F: Scottish Government Letter of 30 September 2012
  - PE1428/G: Petitioner Letter of 31 October 2012
12. The Minister has provided further detail on the study and advises that work is on schedule to be completed by the end of this year. The Minister also confirms that

following consultation with local communities and statutory bodies, the main closure has been programmed for between October and December 2013 to avoid the main tourist seasons.

13. At the meeting on 4 September 2012 Jackson Carlaw made reference to monies previously allocated which were unspent. The Minister advises that some work was carried out on the A83 at Erines as part of an earlier study but that any further work had been dependant on available funding and competing priorities across the Scottish trunk road network.
14. The petitioner believes that the importance of the work on the A83 and how it impacts on communities such as Islay, Jura, Kintyre and Oban is understated. He suggests that consideration be given to bringing forward plans to establish a RoRo ferry service between Campbeltown and the Ayrshire coast as part of its consideration of alternative routes. The petitioner also suggests that a traffic data flow and modelling exercise be undertaken as a matter of urgency to assess the potential scale of diverted traffic.

### **Action**

15. The Committee is invited to consider what action it wishes to take in respect of this petition. There are a number of possible options, including—

(1) To seek any information. For example, the Committee may wish to ask:

The Scottish Government / Transport Scotland —

- Please provide a response to the points raised by the petitioner in his letter of 31 October 2012.
- As it is expected that the study will be completed by the end of the year, when will the results and the Scottish Government's response to it be published?

(2) To refer the petition under Rule 15.6.2 to the Infrastructure and Capital Investment Committee, for further consideration of the issues raised.

(3) To take any other action which the Committee considers appropriate.