



PUBLIC PETITIONS COMMITTEE

AGENDA

17th Meeting, 2012 (Session 4)

Tuesday 27 November 2012

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

1. Consideration of new petitions: The Committee will consider—

[PE1443](#) by Maureen Sharkey, on behalf of Scottish Care and Information on Miscarriage, on investigating the cause of miscarriage

and take evidence from—

Maureen Sharkey, Senior Counsellor, and Elizabeth Corrigan, Volunteer Counsellor, Scottish Care and Information on Miscarriage

and will then consider—

[PE1446](#) by Dr Liza Morton, on behalf of Scottish adult congenital heart patients, on Scottish standards for the care of adult congenital heart patients

and take evidence from—

Dr Liza Morton;

Vicki Hendry, Scottish Patient Representative, The Somerville Foundation

and will then consider—

[PE1451](#) by Belinda Cunnison, on behalf of Freedom to Choose (Scotland), on a review of the smoking ban;

[PE1455](#) by James Macfarlane on public access to court records.

2. Consideration of current petitions: The Committee will consider—

[PE1098](#) by Lynn Merrifield, on behalf of Kingseat Community Council, and
[PE1223](#) by Ron Beaty on school bus safety;

[PE1236](#) by Jill Fotheringham on A90/A937 safety improvements;
[PE1395](#) by Jan Culik on targeted funding for lesser taught languages and cultures at universities;
[PE1400](#) by Libby Anderson, on behalf of OneKind, on a ban on the use of wild animals in circuses;
[PE1413](#) by Amy King on preserving marriage;
[PE1423](#) by Gordon Hall, on behalf of The Unreasonable Learners, on harnessing the undoubted talent of public sector staff;
[PE1432](#) by Joseph Duncalf and Anthony Duncalf on improving emergency ambulance provision in remote and rural areas.

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Clerk to the Public Petitions Committee
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The following papers are attached for this meeting—

Agenda item 1

PE1443	Note by the Clerk	PPC/S4/12/17/1
PE1446	Note by the Clerk	PPC/S4/12/17/2
PE1451	Note by the Clerk	PPC/S4/12/17/3
PE1455	Note by the Clerk	PPC/S4/12/17/4

Agenda item 2

PE1098/1223	Note by the Clerk	PPC/S4/12/17/5
Scottish Government Letter of 31 October 2012		PE1223/RR
PE1236	Note by the Clerk	PPC/S4/12/17/6
Nestrans Letter of 11 October 2012		PE1236/LL
Transport Scotland Letter of 2 November 2012		PE1236/MM
Petitioner Letter of 16 November 2012		PE1236/NN
Charles Gordon Letter of 16 November 2012		PE1236/OO
Laurencekirk Development Trust Letter of 20 November 2012		PE1236/PP
PE1395	Note by the Clerk	PPC/S4/12/17/7
Scottish Funding Council Letter of 25 October 2012		PE1395/O
Scottish Government Letter of 26 October 2012		PE1395/P
Petitioner Letter of 15 November 2012		PE1395/Q
PE1400	Note by the Clerk	PPC/S4/12/17/8
PE1413	Note by the Clerk	PPC/S4/12/17/9
Equality Network Letter of 21 November 2012		PE1413/A
PE1423	Note by the Clerk	PPC/S4/12/17/10
PE1432	Note by the Clerk	PPC/S4/12/17/11
Scottish Ambulance Service Letter of 10 October 2012		PE1432/E
Scottish Government Letter of 23 October 2012		PE1432/F

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1443 on investigating the cause of miscarriage

Note by the Clerk

PE1443 – Lodged 20 October 2012

Petition by Maureen Sharkey, on behalf of Scottish Care and Information on Miscarriage, calling on the Scottish Parliament to urge the Scottish Government to offer all women who have suffered miscarriage, investigations following one loss through miscarriage and to review NHS Scotland's policy on the investigation and treatment of couples who experience miscarriage to help relieve the anxiety and distress to women caused by the current guidelines.

[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 the petition.

Background – the following information is taken from the SPICe briefing

2. In the period April 2009 to March 2010, there were 5,708 miscarriages in Scotland - equivalent to 5.5 miscarriages per 1,000 women aged 15-44 years. (ISD 2012)¹ Table 1 provides further details on the number of miscarriages recorded by the woman's age and health board area of residence.
3. In this same time period, there were a total of 58,356 births² in Scotland, 58,051 of which were live births and the remaining 207 were still-births.
4. While data are collected on the number of live and still-births, and on the number and rate of miscarriage across Scotland, there are no national data reported on the number of women experiencing recurrent miscarriage in Scotland. There are also no nationally reported data in Scotland on the stage of pregnancy that miscarriage occurred (e.g. during first or second trimester).
5. An article published in 2006 in the [Lancet](#) notes that miscarriage is the commonest complication of pregnancy. Recurrent miscarriage (the loss of three or more consecutive pregnancies) is said to affect one per cent of those trying to conceive. There is a strong association between recurrent miscarriage and psychological health, with a third of women attending specialist clinics as a result of miscarriage found to be clinically depressed, and one in five with levels of anxiety similar to those who attend psychiatric outpatient services.

¹ ISD (2012) "Births in Scottish Hospitals: Healthy Birth Weight". Edinburgh: Information Services Division Scotland. Available [here](#)

² Not including home births and births at non-NHS hospitals.

Table 1: Miscarriage^{3 4} by health board area and maternal age, Scotland
Year ending 21 March 2012

	Total	Rate ⁵	Age of mother					
			Under 20	20- 24	25- 29	30- 34	35- 39	40 +
Scotland⁶	5,708	5.5	401	849	1,236	1,375	1,231	616
Ayrshire and Arran	395	5.8	36	80	64	85	89	41
Borders	169	8.8	11	17	27	48	43	23
Dumfries and Galloway	159	6.5	17	36	30	32	24	20
Fife	436	6.1	41	71	109	96	89	30
Forth Valley	267	4.6	15	40	56	53	66	37
Grampian	1093	10.2	79	135	249	304	206	120
Greater Glasgow and Clyde	1204	4.7	80	191	268	269	265	131
Highland	333	6.3	22	44	79	68	70	50
Islands⁷	25	2.2	*	8	*	8	*	*
Lanarkshire	488	4.3	25	70	125	115	116	37
Lothian	726	3.9	40	96	133	196	178	83
Tayside	368	4.8	28	57	85	85	76	37
Other/not known	45	x	*	*	*	16	*	*

Source: ISD -Births in Scottish Hospitals⁸

*" not applicable

³ Miscarriages (spontaneous abortions) requiring hospital in-patient treatment.

⁴ Miscarriage is defined using ICD10 codes (from 1996 onwards) O02 - Other abnormal products of conception, including missed abortion and O03 - Spontaneous abortion.

⁵ -Rate" refers to the number of miscarriages per 1 000 women aged 15-44 years.

⁶ Includes births where NHS board of residence is unknown or outside Scotland.

⁷ Orkney, Shetland and Western Isles NHS board areas

⁸ ISD (2012) -Births in Scottish Hospitals: Healthy Birth Weight". Edinburgh: Information Services Division Scotland. Available [here](#)

6. NHS Inform is the national health information service providing quality assured health information for the public in Scotland. The NHS Inform [website](#) provides information on potential causes of miscarriage. This includes information on causes associated with first trimester miscarriage and causes associated with second trimester miscarriage. It also notes some common misconceptions about the causes of miscarriage.
7. ‘Green-top’ [guidelines](#) on investigation and treatment of couples with recurrent first trimester and second trimester miscarriage were published by the Royal College of Obstetricians and Gynaecologists in 2011. Green-top guidelines offer systematically developed recommendations to assist clinicians and patients in making decisions about appropriate treatment for specific conditions. Green-top guidelines are concise; providing practice based recommendations focusing on specific areas of clinical practice. The guidelines explore possible treatments and services where recurrent miscarriage has occurred during the first trimester or where there has been a miscarriage in the second trimester. The 2011 guidelines replace “The Management of Recurrent Miscarriage” guidelines published in 1998 and 2003.
8. There are also green-top guidelines on [early pregnancy loss](#)⁹ (pregnancies up to 12 weeks) produced in 2006. These focus on pre and post miscarriage medical interventions. These guidelines do make reference to the need to recognise the distress and upset likely to affect many couples/women experiencing miscarriage. However, there is no explicit reference to pursuing investigation in order to reduced the risk of, or prevent future, miscarriage.

Scottish Government Action

9. The Scottish Government published: [“A Refreshed Framework for Maternity Care in Scotland”](#) in January 2011. This Framework was launched with the aim of making sure maternity services achieve the best possible health outcomes for both mother and child, with services individualised to a woman’s needs, including additional support for women with complex health and social care needs.
10. The Framework requires that NHS Boards provide a full and integrated neonatal and maternity care that is responsive to the needs of the local population. Women experiencing complications in early pregnancy should be given access to an early pregnancy assessment service, with care provided in a dedicated area distinct from the general gynaecology or obstetric ward and, in the case of miscarriage, offered a range of care options.
11. While there was guidance produced to accompany this Framework, this focuses specifically on reducing antenatal health inequalities. The strategic Framework does not focus further on support for women who experience complications in pregnancy, specifically regarding interventions to investigate the causes of miscarriage.

⁹ With an addendum added in 2011 (link [here](#)).

Action

12. The Public Petitions Committee is invited to consider what action it wishes to take in relation to 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—

- What plans do you have to collect national data on the number of women experiencing recurrent miscarriage in Scotland and the stage of pregnancy that miscarriage occurred?
- What are your views on what the petition seeks?

Royal College of Obstetricians and Gynaecologists (Scottish Committee)

The Miscarriage Association –

Tommy's—

- What is your view 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

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1446 on Scottish standards for the care of adult congenital heart patients**Note by the Clerk****PE1446 – Lodged 20 October 2012**

Petition by Dr Liza Morton, on behalf of Scottish adult congenital heart patients, calling on the Scottish Parliament to urge the Scottish Government to mandate National Standards for the care of Adult Congenital Heart Patients and to adequately resource the Scottish Adult Congenital Cardiac Service (SACCs).

[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 the petition. The Committee may wish to be aware that a number of submissions have already been received either voicing support for petition or seeking opportunities to make their views and experiences known.

Background – the following information is taken from the SPICe briefing

2. The Petitioner is calling for the introduction of national standards for care of adults with congenital heart conditions in Scotland, similar to the national standards for care for England that are under review by the Department of Health. The Petitioner is also calling for “adequate” resources to be provided to the Scottish Adult Congenital Cardiac Service (SACCs).

What is Congenital Heart Disease?

3. [NHS Inform](#) states that Congenital Heart Disease (CHD) is a general term used to refer to a series of birth defects affecting the heart. It is the most common type of birth congenital condition found.¹ Half of all babies born with CHD will require immediate surgery after birth, while the other 50 per cent may require future surgery or medication at some point during childhood. In some cases CHD is diagnosed during an ultrasound scan prior to birth. More commonly, it is a condition that is identified once a baby is born.²
4. NHS Inform states that the outlook for children with congenital heart disease varies depending on the type and severity of the heart defect. However, in most cases, the outlook is reasonably good. Due to advances in heart surgery, NHS Inform notes that 85 per cent of children with CHD will survive into adulthood. As more people with CHD are now living into adulthood, new challenges are posed

¹ Healthcare Improvement Scotland and National Services Division (2012) “Scottish Perinatal and Infant Mortality and Morbidity Report” Edinburgh: Healthcare Improvement Scotland. Available [here](#)

² British Heart Foundation [website](#) - Information on Congenital Heart Disease (Accessed 1 November 2012)

for the healthcare system as some adults with CHD have complex health needs and require lifelong specialist care.

National Standards for Services to Adults with CHD (England)

5. Given that there are greater number of children with CHD living well into adulthood³ - partly as a result of improvements in paediatric care and treatment - there is now greater demand for adult cardiac services among this group. In response, the Department of Health produced a [guide](#) for service commissioners working with young people and adults with congenital heart disease.⁴ This set out expected service levels to be provided by the NHS in England for the care of adults with CHD, both during the important transition from children's services and throughout adult life.
6. In May 2012, NHS Specialised Services (England) published a [review report](#) inviting views on NHS services for adults with CHD. The report notes the growing number of adults living with congenital heart disease in England, with CHD affecting a number of areas of people's lives. In this context, there is concern to ensure that high quality specialist advice, services and care are available to meet this group's needs. The report recognises that specialist care has not always been developed in a planned and systematic way, and that high quality service provision is not always available across the whole of England. While there are examples of good practice, the review aimed to ensure that this high quality was available to everyone regardless of what part of the country they live in.⁵
7. This document sets out areas for improvement and a model of how adult CHD services could be organised within the NHS in England. It also sets out draft minimum standards (draft national designation standards) believed to help the NHS deliver excellent care in the future. Accompanying the above report is a further [document](#) from NHS Specialised Services⁶ focusing specifically on the proposed model of care and draft designation standards. It is recommended that this document is read in conjunction with the review report.
8. As the Petitioner notes, as yet there has not been any public consultation or publicly held discussion on the development of national standards of service for adults with congenital heart disease in Scotland.

Provision for adults with CHD in Scotland

9. The main provision for adults with congenital heart disease in Scotland comes through the Scottish Adult Congenital Cardiac Service (SACCS) – formerly

³ The term 'grown-up congenital heart disease' (GUCH) is sometimes used to refer to adults with congenital heart disease.

⁴ Department of Health (2006) 'A Commissioning Guide for Services for Young People and Grown Ups with Congenital Heart Disease (GUCH)'. Available [here](#)

⁵ NHS Specialised Services (2012) 'Improving Everyday Life for Adults with Congenital Heart Disease' Available [here](#)

⁶ NHS Specialised Services (2012) 'Draft National Designation Standards and Proposed Model of Care'. Available [here](#)

known as Grown-Up Congenital Heart Disease Services. Designated in 2007, the SACCS provides a range of services for adults with CHD, including surgical procedures and interventional cardiology services⁷.

10. The [SACCS](#) operates from a base at the Golden Jubilee National Hospital in Clydebank, providing specialist advice and care for people aged 16 and over throughout Scotland who have congenital heart defects. In the first full year of operation (2009/10) the service was able to offer a one-stop outpatient clinic where patients received checks to allow timely decisions about the use of potentially invasive forms of clinical care (e.g. surgery or interventional cardiology). Almost 2,000 patients were seen in the 179 clinics held during 2010/11. The service also works closely with the teenage clinic at the Royal Hospital for Sick Children in Glasgow to provide continuity of care from paediatric to adult services. SACCS clinicians also provide support for pregnant women with congenital heart conditions.⁸
11. A recent article in [The Herald](#) (17 September 2012) highlights that for adults with CHD, the Golden Jubilee Hospital offers a valuable service. However, the absence of 24 hour access to this facility leads to patients who need treatment outside hours using general hospitals that are not equipped or informed about how to deal with adult patients with CHD. In response to experiences of poor service elsewhere, the article suggests that patients are waiting for the Golden Jubilee Hospital to open before going for treatment, which is said to be both “~~is~~ky and frightening”. The article also reports that the specialist service in Clydebank is now stretched, having only three consultants and one nurse in post. The concern is that demand may be beginning to exceed resource availability.

Audit Scotland: Cardiology Services

12. Audit Scotland’s report on [Cardiology Services](#)⁹ noted that a range of national activity had been pursued since the mid-1990s to improve services for people with heart disease. The Scottish Office, the Scottish Executive and now the Scottish Government have all identified heart disease and stroke in Scotland as national priorities¹⁰, with a number of national strategies and targets produced with the aim of preventing heart disease, improving treatment and reducing waiting times.

⁷ Adult Congenital Cardiac Service [website](#) (National Services Division, NHS) Accessed 1 November 2012

⁸ The most up to date publicly accessible annual report for the SACCS is for 2009/10 (available [here](#)). Based on personal communication with the Scottish Government we are informed that more up to date annual reports are available on request from National Services Division, NHS.

⁹ Audit Scotland (2012) Cardiovascular Services. Available [here](#)

¹⁰ Audit Scotland highlight the following publications: The Acute Services Review, Scottish Office Department of Health, June 1998; Coronary Heart Disease/Stroke Taskforce Report, Scottish Executive Health Department, 1999; Coronary Heart Disease and Stroke Strategy for Scotland, Scottish Executive Health Department, October 2002; Coronary Heart Disease and Stroke in Scotland Strategy Update, Scottish Executive Health Department, December 2004; Better Health, Better Care: Action Plan for NHSScotland, Scottish Government, December 2007; Better Coronary Heart Disease and Stroke Care: A consultation document, Scottish Government, July 2008 (Audit Scotland, 2012).

13. The Scottish Government's strategy¹¹ on heart disease and stroke focuses on improving services for people with heart disease or who have had a stroke, as well as preventing cardiovascular disease and tackling health inequalities. The action plan set out 32 actions to be delivered by the end of 2011, including one focused on improving adult congenital cardiac services. Audit Scotland note that, while the Scottish Government had set up a National Advisory Committee on Heart Disease to monitor NHS board's performance against the action plan, progress to address the targets was initially slow. However, since 2010, the Scottish Government has been involved in strategic leadership to ensure implementation of the action plan.
14. To help measure progress against the actions and targets set, Healthcare Improvement Scotland developed indicators to support the Scottish Government and NHS boards to measure and monitor their performance against clinical standards.¹² To date, there is no publicly available information on progress toward the target of improving adult congenital cardiac services in Scotland.

Scottish Government Action

15. The Scottish Government report [Better Heart Disease and Stroke Care Action Plan](#) stated that NHS National Services Division and the Golden Jubilee Hospital should work towards achievement of the Department of Health commissioning guidelines for adult congenital heart disease, including awareness raising, development of referral pathways and data collection.
16. Following publication of this action plan, NHS National Services Division and the SACCS¹³ were required to:
 - Develop outreach clinics to facilitate the provision of local care with continuing support from the specialist centre.
 - Develop proposed referral pathways.
 - Develop proposals for a shared care model.
 - Implement the Department of Health's Commissioning Guide —~~Adult~~ Congenital Heart Disease: A Commissioning Guide for Services for Young People and Grown Ups with Congenital Heart Disease”.
 - Develop and maintain a database of people in Scotland living with a congenital cardiac condition to inform service improvements.
17. The Scottish Government has stated that representatives from Braveheart (the Scottish ACHD patients association) have been involved in work to design patient pathways and will be involved in work to adapt the English adult congenital heart disease standards for Scotland. The Scottish Government has also stated that —~~Scottish~~ standards will be consulted on when the time is appropriate”. Finally, it is noted that SACCS is working to develop outreach

¹¹ Scottish Government (2009) Better Heart Disease and Stroke Care Action Plan. Available [here](#)

¹² Links to these reports can be accessed [here](#)

¹³ NHS Scotland (2012) –The Scottish Adult Congenital Cardiac Service North of Scotland Update” Available [here](#)

clinics and a joint clinic is now up and running in Inverness¹⁴ and a second clinical nurse has been appointed to the SACCS service and will soon take up post¹⁵.

Action

18. 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—

- What plans are there to develop national standards of service for adults with congenital heart disease in Scotland?
- What are your views on what the petition seeks?

Scottish Adult Congenital Cardiac Service –

The Somerville Foundation –

Scottish Association for Children with Heart Disorders –

Braveheart –

Children's Heart Federation –

British Heart Foundation –

Health and Social Care Alliance Scotland—

- 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.

¹⁴ The Scottish Government has highlighted that SACCS are commissioned only to provide the national specialist element of the service, not the regional and local components, which is the responsibility of the NHS boards.

¹⁵ Information from personal communication with the Scottish Government.

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1451 on a review of the smoking ban

Note by the Clerk

PE1451 – Lodged 20 October 2012

Petition by Belinda Cunnison, on behalf of Freedom to Choose (Scotland), calling on the Scottish Parliament to urge the Scottish Government to review the smoking prohibition and control provisions of the Smoking, Health and Social Care (Scotland) Act 2005 in the light of new developments in clean air technology and the European indoor air quality standard Ventilation for non-residential buildings, EN 13779.

[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 not has invited the petitioner to speak to the petition.

Background – the following information is taken from the SPICe briefing

2. Reflecting on air quality in general, new developments in clean air technology and European indoor air quality standards, the petitioner contends that the Scottish Government should review the ban on smoking, which came into force on 1 April 2006. The petitioner notes that the smoking ban was predicated on the view that there is no safe level of passive smoking¹. The petitioner challenges this, contends that there are other harmful toxins which people can be exposed to, and that eradicating smoking in indoor areas does not offer protection against bad indoor air.
3. This briefing provides background information on the key issues presented by the petitioner. It should in no way be seen as providing a systematic review of any scientific evidence that exists in this area; rather it seeks only to outline the evidence often referred to as part of the debate on these issues.

Indoor Air Quality

4. The UK Parliament's Parliamentary Office of Science and Technology (POST) published a POST Note on '[Indoor Air Quality](#)' in November 2010. It summarised the main indoor pollutants, the sources of these and the potential health impacts (see Appendix 1). It found that the legislation and policy framework related to outdoor air quality has overshadowed the issue of indoor air quality. It also found there to be no single government department directing

¹ Other names for this often used include "secondary smoke", "environmental second hand smoke" and "environmental tobacco smoke".

policy in this area, a point similar to that made by the UK Health Protection Agency in 2009, which stated that there was a “lack of coordinated action to improve indoor air quality”².

5. The POST Note also found there was a need for greater information and research, not only about the levels of exposure to indoor air pollutants, but also on the risks posed by long-term exposure.

European Standard EN-13779

6. The European indoor air quality standard on ventilation for non-residential buildings ([EN 13779](#)) is intended to prevent health problems caused by air pollution affecting non-residential buildings. The aim of this standard is to making indoor air healthier and more comfortable with air purification systems requiring low investment and low running costs. Since its publication, this standard has been ratified in all European countries.³
7. European standards (EN) are developed by the European Committee for Standardisation (CEN). The development of ENs is usually carried out by a committee of experts from industry and academia that represent the interests of Member States. It would be for the British Standards Institute (BSI) – as the UK’s National Standards Body – to represent the UK interests in relation to European standards.
8. As far as can be established, based on communication with the Scottish Government and the British Standards Institute (BSI), this European standard – now a British Standard: BS EN 13779) – does not have associated regulations or guidance. In short, this means that this is not a mandatory standard that must be complied with to meet regulatory building standards. Rather it is a non-mandatory standard that BSI would encourage builders to meet in order to promote best practice.⁴

Debate over the evidence on passive smoking

Evidence that passive smoking causes ill health

9. Proponents of the smoking ban refer to a very large range of studies in this area e.g. see ASH Scotland’s website [here](#). Outlined below are several of the key systematic review studies that are often referred to.
10. Internationally, one of the most recognised is the [study](#) published by the World Health Organisation (WHO) and the International Agency for Research on Cancer (IARC) in 2002, which reviewed the existing evidence at that time. It concluded there was sufficient evidence to state that passive smoking causes lung cancer in humans, and for it to make the overall conclusion that passive smoking is carcinogenic to humans. More recently, IARC (2010) published a

² ‘A Children’s Environment and Health Strategy for the UK’ (p 27)

³ See this [website](#) for information.

⁴ Personal communication with BSI – the British Standards company promoting best practice.

[paper](#) which took into account further data and studies, which backed up these findings and others.

11. At a UK level, reference is often made to the work of the UK Scientific Committee on Tobacco and Health. It published its first [report](#) in 1998, which found that passive smoking was a cause of lung cancer, ischaemic heart disease, respiratory illness and asthmatic attacks. In 2004, it published an [update report](#), taking account of additional evidence published since 1998, and concluded that this had strengthened earlier estimates of the size of the health risk.
12. In the run-up to the introduction of the then Smoking, Health and Social Care (Scotland) Bill in 2004, a number of studies were commissioned by NHS Health Scotland into the possible impact of regulating smoking in public places. One [review](#) (University of Aberdeen, 2005), considered the existing international evidence concerning the health and economic impact of such regulation. It found there was substantial evidence of a causal link between passive smoking and lung cancer and coronary heart disease (para 3.7), though called for further research to strengthen the evidence base in areas such as stroke and respiratory disease (para 10.1). Another [study](#) (University of Glasgow, 2005) considered the number of deaths caused by passive smoking. It considered the causes of death most commonly associated with smoking (i.e. lung cancer, ischaemic heart disease, stroke and respiratory disease), and estimated that passive smoking was associated with 865 deaths per year in Scotland from these causes.

Arguments on the limitations of passive smoking research

13. There are a number of organisations, groups and individuals that dispute the extent and seriousness of the link between passive smoking and ill-health.
14. One argument, discussed by both the Tobacco Manufacturers' Association (TMA) and the campaign organisation Forest⁵, is that the environmental tobacco smoke (ETS) exhaled by a smoker is diluted in the ambient air. In its [submission](#) to the then Scottish Executive consultation on smoking in public places, TMA (2004) discussed research which showed that a large number of substances that exist in indoor ambient air and that the types of substance found in indoor air were generally similar, irrespective of the presence of tobacco smoke. It argued that the ETS mixes with the ambient air, is diluted and its constituents change over time and according to environmental conditions. Thus, there are important differences between the level, chemical and physical conditions of the smoke by the time it is inhaled by another person.
15. However, the key argument proposed by those who are sceptical of the evidence put forward to justify the smoking ban is articulated by the TMA: "...the scientific evidence available on environmental tobacco smoke causing serious diseases in non-smokers is, when taken as a whole, inconclusive"⁶. In its submission to the Scottish Executive (2004, p 2-3) it points to the findings of passive smoking

⁵ <http://www.forestonline.org/info/passive-smoking/>

⁶ <http://www.the-tma.org.uk/policy-legislation/smoking-in-public-places-sipps/>

epidemiological studies as being inconclusive and inconsistent. Where an elevated level of relative risk has been reported, TMA argues it is of a very low order and could be accounted for by bias or inadequate statistical adjustment. Essentially, it believes that the majority of studies do not meet the crucial test of statistical significance. In addition, reviews which use meta-analysis are deemed unreliable by TMA as, it argues, they compare studies which do not share a similar design or methodology. It also contends that that interpretation of systematic reviews is as prone to errors as the interpretation of data in individual studies, and that in both cases interpretations offer subjective, not objective, judgements.

16. The campaign group Forest on its [‘Passive Smoking’](#) webpage includes a number of other reports and studies, which it refers to when making its case on the issue.

Debate over the evidence on ventilation

17. One of the alternatives suggested to imposing a smoking ban in public places is the installation of ventilation systems. Ventilation is the dilution or displacement of unwanted indoor air constituents, including smoke or odours, with fresh outdoor air.
18. The basic argument given against ventilation is that second-hand smoke contains 4,000 chemical compounds of which at least 250 are known to be toxic or carcinogenic, and that ventilation cannot remove all of these, leaving substantial amounts in the air⁷. In its [submission](#) to the then Scottish Executive’s consultation in 2004, ASH Scotland, presented details of research which led it to conclude that ventilation could not be accepted as a solution to the risks associated with exposure to ETS. This included the findings from a study⁸ of pubs in Ireland, which found that 13 out of 14 bar ventilation systems studied were unable to maintain environmental tobacco smoke at low levels, and that, in two world record breaking levels of CO were found.
19. However, in the background information to the petition, the petitioner presents the case that implementation of Standard EN13379, together with what they believe is evidence that ventilation is improving, justifies a review of the smoking ban. At the time of scrutiny of the then Bill, research referred to by proponents of ventilation included that by researchers from the University of Glamorgan, who found that ventilation was effective in controlling levels of contamination⁹. Those who support the use of ventilation systems also use the wider argument that identifying and measuring the components of ETS and assessing the exposure of non-smokers to them in real-life situations, present very great difficulties. TMA (2004, p 8) stated that various substances that make up ETS are generally only present in extremely low concentrations, some below any meaningful measurement. It contended that some of these are likely to be

⁷ For example, see ASH Scotland [‘What is second-hand smoke’](#)

⁸ See [here](#) for a copy of the abstract.

⁹ It has not been possible to access the research, but it and its findings are referred to in House of Commons Health Select Committee (2005) [‘Health – First Report’](#) (para 27-28)

present in the air anyway, emanating from other sources and inseparable from the ETS contribution.

Scottish Government action

20. The Scottish Government has advised that it has no plans to review the smoking ban legislation and is committed to developing a new tobacco control strategy. It also noted that the UK (including Scotland) is signed up to the WHO [Framework Convention on Tobacco Control](#), Article 8 of which makes recommendations for protection from exposure to second hand smoke. It also stated that any amendments that would allow smoking in public places again would be highly criticised from a health point of view and undoubtedly seen as a backwards step that goes against its actions to denormalise smoking.¹⁰
21. The Scottish Government commissioned a national evaluation of the smoking ban legislation. A [summary](#) of the evaluation was published in January 2010. Amongst its findings included:
 - an 89 per cent reduction in second hand smoke exposure in bar workers
 - a 39 per cent reduction in SHS exposure in adults and 11-year old children
 - a 17 per cent reduction in hospital admissions for acute coronary syndrome
 - some evidence of social isolation among older male smokers who no longer frequented pubs following the smoking ban

Scottish Parliament action

22. Since the passing of the smoking ban legislation, there have been no debates in Parliament concerning the issues raised by the petitioner or on the ban itself.
23. In the third session of Parliament there were two petitions lodged with the Public Petitions Committee:
 - [PE1037](#) calling for the Scottish Parliament to amend the Smoking, Health and Social Care (Scotland) Act 2005 to allow smoking in pubs and clubs within designated smoking areas
 - [PE1042](#) calling for the Scottish Parliament to review the smoking prohibition and control provisions of the Smoking, Health and Social Care (Scotland) Act 2005, and to adopt a comprehensive approach to indoor air pollution by introducing a Regulated Indoor Air Quality Standard.
24. Both petitions were referred to the Health and Sport Committee which, on 1 October 2008, decided to close the petitions on the grounds that they would be taken into account during any post-legislative scrutiny of the Smoking, Health and Social Care (Scotland) Act 2005. The Committee did not undertake an inquiry into this area.

¹⁰ Personal communication 22 November 2012

Action

25. 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—
Forest—
NHS Health Scotland—
Tobacco Manufacturer's Association—
ASH Scotland—

- 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

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1455 on public access to court records

Note by the Clerk

PE1455 – Lodged 20 October 2012

Petition by James Macfarlane calling on the Scottish Parliament to urge the Scottish Government to consider the need for new legislation to create a free of charge public right of access to information generated in relation to court proceedings, including all documents which have been read in open court, whether aloud or not, and to proactively publish this information online.

[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 not has invited the petitioner to speak to this petition.

Background – the following information is taken from the SPICe briefing

Current position

2. Members of the public and the media are free to attend and report on court cases in most circumstances¹. The situations where this right may be restricted include where there are vulnerable parties or witnesses (e.g. children), or where the matters to be discussed are highly sensitive (e.g. national security). Nevertheless, the public right to scrutinise the justice process is considered to be an important principle in democratic societies.
3. While the public can attend court hearings and form an impression of a case as it unfolds, little of the written information produced in court is available to the public. Sentencing statements are produced in more serious criminal cases which explain a judge's sentencing decision. Similarly, written judgments are produced for all civil cases in the Court of Session (Scotland's superior civil court). Written judgments may also be available to the public in some civil sheriff court cases which are considered to be of particular importance. However, in most cases, only the basic elements of the sheriff's decision are recorded.
4. In addition, the public are able to ask court staff for information about court cases past and present. Where the information is readily available (for example the member of the public is able to identify a specific case) and in the public domain, court staff can provide this. Other material presented to the courts, such as

¹ The restraints on journalists' (and individuals') ability to report cases are discussed below.

witness statements, expert reports, documentary and physical evidence, is not generally available to the public.

Journalists

5. Journalists are granted wider access to court documents in order to aid accurate reporting. This will usually mean that access to official court documents is available on request where they have been referred to in court proceedings. The position of evidence, such as witness statements or expert reports, is less clear. Certainly, these will not be available where they have not been referred to in court proceedings. Because most cases do not go to proof (civil) or trial (criminal), many documents related to a case will not be referred to in open court. Of course, journalists may get information from the parties to a court case as well as from court staff.
6. In their reporting of events, journalists are restrained by the fact that allegations which are not part of a fair and accurate report of contemporaneous court proceedings could form the basis of an action for defamation. They are also restrained by the law in relation to contempt of court², as well as other legal provisions.

Powers of the judge

7. It remains open to a judge to order particular information to be released where the circumstances of the case justify it. This is what happened in one of the cases referred to by the petitioner. In [Petition by the BBC for Access to Crown Productions in the case of HMA v Hainey](#) [2012] HCJDV 10, the BBC petitioned the court to have access to photographs produced as part of the Crown case in a murder trial. After balancing the competing interests involved, the judge held that photographs featuring only the victim should be released by the Crown Office and Procurator Fiscal Service. The petitioner argues that the process of raising a court action, as the BBC had to do, is too cumbersome and expensive. Instead, an assumption should exist that documents referred to in court are automatically available to the public.

Other considerations

8. The petitioner calls for all information referred to in court proceedings to be available free of charge and published online. There are practical considerations which affect this proposal.
9. The information produced as part of a court case is not the property of any one person or organisation. In most cases (although not all), it will belong to the parties producing it and may remain in their custody. Under the current arrangements, it would not necessarily be possible for one organisation – for

² Contempt of court law allows journalists to report on court proceedings as they happen and to comment on them in discussions on public affairs. However, anything which impedes or prejudices the administration of justice may be illegal under the Contempt of Court Act 1981 and related common law.

example, the Scottish Court Service³ – to be responsible for publishing such information. In addition, the cost of providing free copies of court documents may be a considerable burden for either the Scottish Court Service or the parties to a case to take on.

10. There are also a number of legal hurdles to overcome. The Data Protection Act 1998 governs the processing (including passing on) of personal and sensitive data. The Human Rights Act 1998 enshrines the right to a fair trial (article 6 of the European Convention on Human Rights), the right to privacy (article 8) and the right to freedom of expression (article 10). Each of these rights may have to be considered and balanced against competing interests when deciding whether information should be released. There are other legal provisions which may be relevant.
11. There may be additional reasons for protecting the identities of parties to court action. In guidance issued by the Lord President regarding the publication of written judgments⁴ in civil cases, it is noted that opinions covering asylum seekers, adoption orders and some other sensitive circumstances should be anonymised. In relation to criminal cases, it may be thought that the identity of victims should be protected. Where individuals are convicted of criminal charges, arrangements exist to keep a record of convictions and to release information to others (e.g. potential employers) in appropriate circumstances, but to otherwise keep the information private (e.g. to encourage rehabilitation).

Comparisons

12. The petitioner highlights a recent decision in the English courts – [R \(on the application of Guardian News and Media Ltd\) v City of Westminster Magistrates' Court \[2012\] EWCA Civ 420](#). Here, it was held that a court had the power to order the release of documents where the principle of open justice (the right of the public to scrutinise what happens in court), when balanced with other considerations, required it. The documents (including evidence) had all been referred to in court proceedings but had not been read out in court.
13. The judge in the above case referred to the administrative process which exists in England for dealing with such requests. Where anything beyond very basic information is requested, a court order is required before the information can be released. In addition, a fee must be paid for access.
14. The petitioner also highlights the [PACER](#) (Public Access to Electronic Records) website in the USA. This provides online access to a wide variety of court documents. Small volume users pay nothing, but larger users pay a charge per page downloaded. Identifying information such as date of birth (and address in criminal cases) is removed from the downloadable documents. However, names remain unless the person in question is a child.

³ The Scottish Court Service is the body responsible for the administration of our courts, including staff, buildings and equipment.

⁴ Court of Session Practice Note No. 2 of 2007. [-Anonymising Options published on the Internet](#)".

Scottish Government Action

- 15 This is not an area that the Scottish Government is actively considering at the moment.

Scottish Parliament Action

16. The Justice Committee held an evidence session on the role of the media in criminal trials on [2nd October 2012](#). The [SPICe briefing](#) which informed it contains additional information.

Action

17. The Public Petitions Committee is invited to consider what action it wishes to take in relation to 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 Court Service—
 Scottish Human Rights Commission—

- What are your views on what the petition seeks?

- (2) To refer the petition under Rule 15.6.2 to the Justice Committee.

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

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1098 and PE1223 on School Bus Safety

Note by the Clerk

PE1098 – lodged 2007

Petition by Lynn Merrifield, on behalf of Kingseat Community Council, calling for the Scottish Parliament to urge the Scottish Government to make provision for every school bus to be installed with three point seatbelts for every school child passenger and to ensure that, as part of a local authority's consideration of 'Best Value' in relation to the provision of school buses, proper regard is given to the safety needs of the children.

[Link to petition webpage for written submissions, written questions asked, SPICe briefing and previous consideration.](#)

PE1223 – lodged 2009

Petition by Ron Beaty calling on the Scottish Parliament to urge the Scottish Government to take all appropriate action, whether through amending guidance, contracts, agreements or legislation, to require local authorities to install proper safety signage and lights on school buses, to be used only when school children are on the bus when necessary, and make overtaking a stationary school bus a criminal offence.

[Link to petition webpage for written submissions, written questions asked, SPICe briefing and previous consideration.](#)

Purpose

1. These are current petitions last considered by the Committee at its meeting on [18 September 2012](#). At that meeting the Committee agreed to write to the Cabinet Secretary for Infrastructure, Investment and Cities seeking clarification of the timeframe for the work to establish costings for the impact of any legislative changes relating to school bus safety. The Committee is invited to note the response from the Minister for Transport and Veterans.

Background

2. These two petitions were carried over from the last session of the Parliament and were considered together by the previous Committee. Issues raised in the petitions have been considered on more than 15 occasions. One of the barriers to making progress is that some of the relevant powers are presently reserved to Westminster.
3. On 26 October 2010, Mike Penning MP gave evidence to the Session 3 Committee and said that the UK Government "*could devolve powers on school transport if the Scottish Government wished to take competence on that*". Since then, the Session 3 Committee was keen to maintain progress. Keith Brown MSP, the then Minister for Transport and Infrastructure, attended and gave

evidence at a Committee meeting on [8 March 2011](#). He advised he had written to Mike Penning MP accepting the offer in principle, subject to discussions between the legal and policy teams of the UK Government and the Scottish Government. Subsequently, he advised that some legal complications had arisen and that they were being worked on.

Session 4 consideration

4. As the Committee is aware, work is ongoing by the Scottish Government and the UK Government to identify a suitable mechanism for the devolution of relevant powers. Transport Scotland has advised that it could be 2018 before the new safety measures could be implemented. The Committee has been consistent in reflecting its concerns to both parties about the delays and seeking clear timescales for agreeing a way forward.
5. Following the meeting on [12 June 2012](#) the Committee wrote to the Minister for Transport and Veterans again about the length of time taken to identify a suitable mechanism for devolving powers. The Cabinet Secretary for Infrastructure and Capital Investment has indicated that Transport Scotland had now commissioned research to establish the full implications and potential costs any new legislation could have on local authorities.
6. At its meeting on [18 September 2012](#) the Committee noted the response and agreed to write again to the Cabinet Secretary seeking confirmation of the timeframe for the research and when the results would be available.
7. Arrangements for a Chamber event on school bus safety are in hand but the suggested date for this has been put back to May 2012.

Action

8. The Committee is invited to note the response of 31 October 2012 from the Minister for Transport and Veterans.

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 18 September 2012

PE1236 on A90/A937

Note by the Clerk

PE1236– Lodged 16 February 2009 (8,125 signatures)

Petition by Jill Campbell calling on the Scottish Parliament to urge the Scottish Government to improve safety measures on the A90 by constructing a grade separated junction where the A937 crosses the A90 at Laurencekirk.

[Link to Petition webpage](#)

Purpose

1. This is a current petition last considered by the Committee on [18 September 2012](#). The Committee agreed to seek further information from the Scottish Government/Transport Scotland, and Nestrans. Responses have been received and the Committee is asked to decide what action it wishes to take.

Background (from original SPICe briefing – February 2009)

2. The A90 is a trunk road connecting central Edinburgh with Fraserburgh, although the route between a point several miles to the north of the Forth Road Bridge and Perth is classified as the M90. The A90 used to run through the centre of Laurencekirk, until a bypass was constructed in the mid-1980s. There are three at-grade junctions connecting Laurencekirk with this stretch of the A90. This petition relates to the southernmost of these, which is a staggered crossroads with the A937, a road which links Laurencekirk with Montrose.
3. The Scottish Parliament previously considered petition PE778, also submitted by Jill Campbell and took evidence from the petitioner in November 2004. The Committee closed the petition in March 2005 after receiving confirmation from the then Scottish Executive of a series of road safety improvements that would be made. These were implemented in 2005.

Session 3 Public Petitions Committee consideration

4. This petition is three and half years old and was considered by the Session 3 Committee on nine previous occasions, including taking evidence from Ministers.
5. In May 2009 Transport Scotland met with the Minister, Mike Rumbles MSP and the petitioner and agreed to instruct BEAR Scotland Ltd to undertake an Accident Investigation and Prevention (AIP) study at Laurencekirk. The 2008 Strategic Transport Projects Review (STPR) had already considered the case for a grade separation of the Laurencekirk / Marykirk junction and concluded that it was not considered necessary at that time. The AIP study was finalised in October 2009 and recommended a series of improvement measures on that area of the road.

6. The petitioner questioned the way in which the study had been carried out and requested details of estimated costs for a grade separated junction. In May 2010 Transport Scotland was asked to provide accurate costs for carrying out the work at Laurencekirk and accident figures for two other sites where grade separation had been approved.
7. Transport Scotland responded that it would not be possible to provide accurate costs; it had provided information on comparable junctions and reminded the Committee that the STPR for Laurencekirk had concluded grade separation was not necessary at the present time. If proposed local housing and business developments went ahead, Aberdeenshire Council would be required to bring forward a strategy for junction improvements including grade separation at that time.

Session 4 consideration

8. In December 2011 the Scottish Government published its [Infrastructure Investment Plan 2011](#) including an intention to “*dual the A9 between Perth and Inverness by 2025, with a view to completing dualling of the A96 and the dualled road network between all our cities by 2030*”.
9. Transport Scotland repeated that it had no plans to construct a grade separated junction at Laurencekirk. If a proposed local housing development went ahead, it would expect the local authority and developers to bring forward plans and fund a grade separated junction.
10. In [March 2012](#) the Committee wrote to Transport Scotland about the number of heavy vehicles and buses crossing the junction on a daily / weekly basis. The Committee also wrote to Aberdeenshire Council asking whether it intended to make representations to Transport Scotland to help progress an upgrade to the junction.
11. In its response, Transport Scotland advised that the number of heavy vehicles and buses using the junction had been addressed in the Accident Investigation and Improvement study in 2009. It also provided an update on the plans for housing in respect of which the Reporters recommendations were published in March 2012. The recommendations include:
 - any significant development at Laurencekirk will require 1 or more grade separated junctions on the A90; and
 - It will be for the developers to fund the grade separated works
12. Nestrans and Aberdeenshire Council believe that predictions for future traffic levels have been underestimated
13. At its meeting on [18 September 2012](#) the Committee agreed to seek further information from the Scottish Government/Transport Scotland, and NESTRANS. The following responses have been received:
 - PE1236/LL: Nestrans Letter of 11 October 2012

- PE1236/MM: Transport Scotland Letter of 2 November 2012
- PE1236/NN: Petitioner Letter of 16 November 2012
- PE1236/OO: Charles Gordon Letter of 16 November 2012
- PE1236/PP: Laurencekirk Development Trust Letter of 20 November 2012

Action

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

(1) To refer the petition under Rule 15.6.2 to the Infrastructure and Capital Investment and Cities Committee for further consideration of any issues arising from the petition;

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

(3) 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, the Committee may consider the reason to be that:

- Responsibility for this work lies at local level. The Committee notes that the relevant local authorities and transport bodies are working together to find a solution and it is not thought that there is anything more that the Committee can usefully add to this process.

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1395 on targeted funding for lesser taught languages and cultures at universities.**Note by the Clerk****PE1395 – Lodged 31 July 2011 (3368 signatures)**

Petition by Jan Culik calling on the Scottish Parliament to urge the Scottish Government to instruct the Scottish Funding Council to provide targeted funding for lesser taught languages and cultures at Scottish universities.

[Link to petition webpage for written submissions, written questions, SPICe briefing and previous consideration](#)

Purpose

1. This is a current petition last considered by the Committee at its meeting on [2 October 2012](#). At that meeting the Committee decided to write to the Scottish Government and the Scottish Funding Council (SFC) seeking responses to the points raised by the petitioner in his submission of September 2012. Responses have now 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. Universities in Scotland receive funding from the government, via the Scottish Funding Council, for teaching, research, capital and other miscellaneous strategic issues. Each year the Scottish Government sets out broad priorities for how public resources should be spent and the SFC then allocate resources to individual institutions taking into account the government priorities.
3. Overall, SFC funding accounts for around 40% of universities income, although this proportion will vary between institutions. How the funding is allocated to each university is a fairly complex process (see *SPICe Briefing Higher Education Institutions: Finance* for further detail). In allocating funding for teaching SFC allocates each HEI a full-time equivalent number of funded student places in each of 12 funding subject groups.
4. A formula is then used to derive SFC allocations for teaching. Institutions have some flexibility in how they use their funded places and do not have to fill the specific funded place to each funding subject group, apart from funded places allocated to “controlled” subjects e.g. dentistry and medicine, which institutions are expected to fill.
5. Under the Further and Higher Education (Scotland) Act 2005 the SFC has a duty to secure coherent provision by the fundable bodies and it and keeps the matter under review.

Public Petition Committee consideration

6. The Committee has considered this petition on six previous occasions.
7. In a letter to the SFC of 21 September 2011, the Cabinet Secretary for Education and Lifelong Learning set out the priorities for investment and subsequently requested that the provision of Slavonic languages be kept under review. The Cabinet Secretary has said since that he is satisfied that the SFC has taken into account Scotland's economic, social and cultural needs in making its funding allocations.
8. Glasgow University's 2012-13 Outcomes Agreement with the SFC commits to maintaining provision of teaching in nine languages (French, German, Polish, Russian, Czech, Spanish, Catalan, Italian, Portuguese and Translation studies). The petitioner welcomed this but did not feel that teaching to levels 1 and 2 was sufficient.
9. In May 2012 the Committee wrote to the SFC seeking further details of its case assessments and review of the provision of Czech, Polish and Slavonic Studies. The findings of the review were provided by the SFC in its letter of [25 July 2012](#).
10. When this petition was last considered in October 2012, the Committee agreed that it would write to the Scottish Government and the SFC seeking their further responses to points raised by the petitioner about specific courses offered, the level to which courses will be taught and the way in which teaching is provided. Responses have been received as follows:
 - PE1395/O: Scottish Funding Council Letter of 25 October 2012)
 - PE1395/P: Scottish Government Letter of 26 October 2012
 - PE1395/Q: Petitioner Letter of 15 November 2012
11. The Scottish Government reiterates its position. It believes that it is neither necessary nor appropriate for it to intervene in the decision made by Glasgow University. It notes that the SFC is responsible for coherence of provision and it is satisfied with the review of language provision that the SFC carried out.
12. The SFC is satisfied that the University has retained the capacity to reinstate the provision should demand increase and that the University has made a decision to focus resources on areas of growing demand. The SFC does not believe there is any reason for it to intervene.
13. The petitioner notes that as a result of the PPC's involvement, the University will be reinstating the full Honours Slavonic Studies programme, including the suspended postgraduate Diplomas in Czech and Polish. The petitioner remains concerned that there is no "long term strategic protection for the language-based study of the cultures of Central and Eastern Europe" and questions the statement by the SFC that scope will be retained to respond to future shifts in demand. The petitioner also states that "no information about the review is available". However as noted in paragraph 9 above, this information was provided to the Committee by the SFC in July 2012 and passed to the petitioner at that time too.

Action

14. 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 write to the SFC asking it to set out how it gathers information on unmet demand for courses that are not being offered.
- (2) To refer the petition under Rule 15.6.2 to the Education and Culture Committee, for any further consideration of the issues.
- (3) To take any other action which the Committee considers appropriate, or
- (4) To close the petition under Rule 15.7. If the Committee decides to close the petition it must state publicly its reason for doing so. It is suggested that a reason for closing the petition may be that the Scottish Government and the Scottish Funding Council are content that there is an adequate provision for modern languages and sufficient capacity to respond to changing demand.

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1400 on wild animals in circuses

Note by the Clerk

PE1400– Lodged 2 September 2011 (1671 signatures)

Libby Anderson on behalf of OneKind calling on the Scottish Parliament to urge the Scottish Government to introduce a ban on the use of wild animals in circuses immediately.

[Link to petition webpage, for written submissions, written questions asked, SPICe briefing and previous consideration](#)

Purpose

1. The Committee last considered this petition at its meeting on 26 June 2012. At that time, the Committee noted that the Scottish Government hoped to have firm plans in place by winter 2012. No further communication has been received from the Scottish Government. The Committee is invited to consider what action it wishes to take on the petition.

Background - the following information is taken from the [SPICe briefing](#)*Current Legislation*

2. Animal welfare is a devolved matter. The [Animal Health and Welfare \(Scotland\) Act 2006](#) introduced new protections for animals, the main one being for animal keepers to ensure an animal's basic welfare needs are met. There are no specific provisions for circus animals under the Act, but Section 24 provides a statutory basis for licensing activities involving animals. Circuses that currently use animals throughout the UK must register with a local authority under the [Performing Animals \(Regulation\) Act 1925](#) (as amended). The registering authority will be where the exhibitor resides and not necessarily where the circus is performing.
3. The movement of performing animals between EU Member States is also controlled under [EU Commission Regulation 1739/2005](#) and the [Animals and Animal Products \(Import and Export\) \(Scotland\) Regulations 2007](#). Registration must be made with Competent Authorities in the country of residence and country of destination, and relevant passports and Animal Health Certificates are required. In the UK, the Animal Health and Veterinary Laboratories Agency is the responsible Competent Authority.

UK Government

4. The UK Government consulted on a ban in early 2010. The [summary of responses to a defra consultation on the use of wild animals in circuses](#) suggests the majority of the public are against their use. 95.5% of respondents thought that there are no species of wild animal which it is acceptable to use in travelling

circuses. The main reason given was that the welfare of wild animals in travelling circuses is compromised by the travelling circus environment.

5. Respondents from the circus industry were unanimously opposed to a ban but supported compulsory statutory regulation. They argued that there was no evidence that the circus environment was detrimental to an animal's welfare. An argument was also made that removing animals used to a circus environment from the circus and could be detrimental to their welfare.
6. In May 2011, the UK Government announced a decision to introduce a licensing system, rather than a ban on wild animals in circuses. In a [written statement accompanying the announcement](#), the Secretary of State for Environment, Food and Rural Affairs stated "The Austrian Government have been taken to court for their attempt to ban wild animals in circuses. This Government want to take action as soon as possible to protect wild animals in circuses without waiting for the outcome of that judgment. For this reason we propose to introduce a strict licensing regime using powers provided under the 2006 Act."
7. The details of the licensing system are under development but are likely to include rules for transport, types of quarters provided for the animals and treatment of the animals by trainers and keepers.

Austrian Case

8. The [Austrian Animal Protection Law](#) which entered into force 1 January 2005 prohibits the keeping of wild animals in circuses. A complaint was made to the European Commission by the General Manager of a circus association. On 12 October 2005, the Commission opened infringement proceedings against Austria by sending a letter of formal notice to the Austrian authorities. Since then, the Commission changed its mind about the necessity of action at the European level and in September 2009 set out its [final opinion](#) that Austria could justify the ban on welfare grounds.

Scottish Parliament

9. A ban on circus animals was called for in 2006 when the Animal Health and Welfare (Scotland) Bill was debated. An [amendment](#) to ban circus animals was turned down. On 9th June 2011, the [Scottish Parliament debated a motion](#) lodged by Elaine Murray (MSP) on banning wild animals in circuses.
10. The Minister for Environment and Climate Change concluded the debate stating that the Scottish Government would continue to look at this issue, informed by information coming from Westminster.

Public Petitions Committee consideration

13. Following an initial evidence session with the petitioner, the Scottish Government advised that its position on wild animals in traveling circuses was currently under review and stated "the status quo is not a tenable option". The Minister and the Cabinet Secretary for Rural Affairs and the Environment remain sympathetic to a ban.

14. In June 2012 the Scottish Government advised that due to other higher priority work, its current estimate of when firm plans for a consultation might be in place was winter 2012.

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 write to the relevant Minister expressing disappointment that there has been no progress on this as yet and asking when it expects to have firm plans in place for a consultation.
 - (2) To refer the petition under Rule 15.6.2 to the Rural Affairs, Climate Change and Environment Committee, for further consideration of the issues, or
 - (3) To take any other action which the Committee considers appropriate.

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1413 on preserving marriage

Note by the Clerk

PE1413 – Lodged 4 January 2012

Petition by Amy King calling on the Scottish Parliament to urge the Scottish Government to make no changes to the current definition of marriage, as being a union between one man and one woman, regardless of what happens in Westminster.

[Link to petition webpage](#)

Purpose

1. This is a current petition last considered by the Committee at its meeting on [24 January 2012](#). The Committee agreed to consider the petition again following the conclusion of the Scottish Government's consultation. The Scottish Government announced in its [legislative programme](#) for 2012-13 its intention to legislate on this issue. The Committee is invited to consider what action it wishes to take on this petition.

Current legislation

2. The Marriage (Scotland) Act 1977 allows mixed-sex couples to enter into a civil marriage or religious marriage, i.e. the marriage can be solemnised before a religious celebrant, or before a registrar. The Civil Partnership Act 2004, in force since December 2005, allows same-sex couples to have their relationship legally recognised, and for the legal impacts to be almost identical to marriage.
3. A marriage can only be entered into between a man and a woman.¹ Consequently a marriage will be void if two parties are of the same sex. Two people are not eligible to register in Scotland as civil partners of each other if they are not of the same sex.²

Scottish Government action

4. The Scottish Government ran a [consultation](#) on same-sex marriage and civil partnership between 2 September and 9 December 2011. The Ministerial Foreword stated the Government's position.

"We tend towards the view that religious ceremonies for civil partnerships should no longer be prohibited and that same sex marriage should be introduced so that same sex couples have the option of getting married if that is how they wish to demonstrate their commitment to each other. We also

¹ Stair, *The Institutions of the Law of Scotland* (6th edn, 1981), I 4.1- I 4.6.

² Civil Partnership Act 2004, s 86(1)(a).

believe that no religious body or its celebrants should be required to carry out same sex marriages or civil partnership ceremonies.”

5. The Scottish Government recognises that it could be argued that if same-sex marriage is introduced, there may be no need to allow civil partnerships to be registered through a religious ceremony. Additionally, given the intention of the UK Government to consult on same-sex civil marriage in England and Wales, the Scottish Government also sought views on same-sex civil marriage with no religious ceremony.

Public Petitions Committee consideration

6. The Committee agreed at its meeting on [24 January 2012](#) to consider the petition again following the conclusion of the Scottish Government’s consultation. In its [legislative programme for 2012-13](#) the Scottish Government announced that it intends to bring forward legislation on this issue.
7. A letter of 21 November 2012 received from the Equality Network is included with Members’ papers.

Action

12. It is suggested that as the Scottish Government has carried out a consultation and intends to bring forward legislation which will be subject to the usual consultation and scrutiny process, that this petition be closed. In closing the petition, the Committee may wish to bring it to the attention of the Equal Opportunities Committee on the basis that it is expected that it will be responsible for stage 1 scrutiny of the Bill

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 27 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 considered at a round table discussion on [13 November 2012](#). A brief summary of the discussion is provided in this paper. The Committee is invited to consider what action it wishes to take on 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 “profound 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](#) (Christie Commission), which reported in June 2011, contained a series of priorities for the future of public services in Scotland, many of which are relevant to the Petition.
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 4 Finance Committee** is not currently undertaking any specific work on the issue.

Public Petitions Committee consideration

7. The Committee has considered this petition on three previous occasions and on 13 November 2012 held a round table discussion attended by the petitioner, Professor Richard Kerley, Dot McLaughlin, Jim Mather, Dr Nicola Richards, Janet Whitley and Dave Watson.
8. The Committee noted that Dave Watson had been an expert adviser to the Christie Commission. The Commission had considered issues raised in the petition as part of its work and had highlighted systems thinking as a way forward. The Scottish Government is already committed to taking forward the recommendations of the Christie Commission report.
9. Dr Nicola Richards confirmed that the Scottish Government had already reviewed the relevant research referred to by the petitioner. She confirmed that systems thinking is currently drawn upon and used by officials within the Scottish Government. Dr Richards confirmed that the theories and thinking behind the petition are already being taken forward wherever possible.
10. Janet Whitley drew attention to the work of the Scottish Leaders Forum which brings together 300 chief executives from across public service. The Forum has a Workforce Development Group which has started to do specific strands of work to address issues coming out of the Christie Commission. Ms Whitley confirmed that action is being taken to try to bring about the necessary culture change.

11. Professor Richard Kerley observed that ‘non-competitive competition’ between public bodies can be a barrier to implementing best practice and that not all public services are the same. In some areas, for example mass procurement, there is a place for command and control and variation.
12. Dot McLaughlin (the Improvement Service) noted that the Christie Commission had initiated different conversations amongst the public service and moves away from asking what each service provision is towards asking how collaborative working can take place. There is now a greater appetite to work together to achieve outcomes.
13. The petitioner suggested that the parties involved in the round table session could be invited to meet up again and come back to the Committee with suggestions as to actions that could be taken. Should the Committee wish to invite the witnesses to meet up again to continue the discussion, it is recommended that to ensure any such discussion is focused it is limited to the participants at the round table (or their representatives).
14. The Local Government and Regeneration Committee has issued a call for evidence for its [inquiry](#) on Public Sector Services Reform Strand 3 – developing new ways of delivering services. The remit of the inquiry is to:

“examine progress in relation to: the development of shared services and other innovative ways of achieving economies of scale and: harnessing the strengths and skills of key public sector partners to deliver the best possible quality services in local areas.”
15. The closing date for submissions to that Committee is 20 December 2012. In order to avoid duplication of effort, it is suggested that the petition be referred to the Local Government and Regeneration Committee for consideration as part of its inquiry.

Action

16. The Committee may take such action as it considers appropriate in relation a petition. It is recommended that this petition is referred to the Local Government and Regeneration Committee under Rule 15.6.2 for consideration as part of its inquiry into Public Sector Services Reform. In doing so, it is suggested that the Committee could invite those round table discussion participants who are agreeable to meet again informally to continue their discussions on the petition. Any report back should be to the Local Government and Regeneration Committee.

Public Petitions Committee

17th Meeting, 2012 (Session 4), Tuesday 27 November 2012

PE1432 on Improving emergency ambulance provision in remote and rural areas**Note by the Clerk****PE1432 – Lodged 9 May 2012**

Petition by Joseph Duncalf and Anthony Duncalf calling on the Scottish Parliament to urge the Scottish Government to initiate an urgent review of emergency ambulance provision in Scotland's remote and rural areas, such as the Stewartry area of Dumfries and Galloway, to ensure an improved response to the emergency and urgent care needs of people in remote and rural communities.

[Link to petition webpage](#)

Purpose

1. This petition was last considered by the Committee on [18 September 2012](#). The Committee agreed to write to the Scottish Government and the Scottish Ambulance Service (SAS) on response times and engagement with local communities. Responses have been received and the Committee is invited to decide what action it wishes to take on the petition.

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

2. The petitioners raise concerns about serious delays in the arrival of emergency ambulances in and around the Dalbeattie area of Dumfries and Galloway. The petition is motivated by a recent incident involving an 89 year old neighbour who had fallen in their bathroom. In addition, the petitioners cite other local incidents where people had waited for long period for an emergency ambulance.
3. The delays are suggested to result from a shortage of vehicles and crew within the district, with only two ambulances stationed within the Stewartry district. When these ambulances are already attending calls, or an ambulance is „off the road“ for whatever reason, crews from Dumfries or Newton Stewart are relied on, which the petitioners note are further away and are, they argue, less likely to be able to meet target arrival times for emergencies.
4. While the petitioners state people have expressed interest in the volunteer [First Responders scheme](#), they claim this has not been followed up by the Scottish Ambulance Service or NHS Dumfries & Galloway.¹

¹ There is more about this later in this briefing; with personal correspondence highlighting that NHS Dumfries and Galloway have recently been taking steps to develop the First Responders scheme in the local area.

Scottish Government Action

5. The Scottish Government have a suite of NHS performance targets (HEAT targets). NHS Boards and the Scottish Government monitor Boards' performance against these and progress is published on the Scottish Government's [Scotland Performs](#) website. There are HEAT standards² set by the Scottish Government that the Scottish Ambulance Service (SAS) are responsible for delivering. These are time based targets for emergency and urgent response:
 - Reach 75% of Category A (life threatening) emergencies within 8 minutes (mainland NHS Board areas)
 - Reach 95% of Category B (emergency, but not life threatening) emergencies within 19 minutes (mainland NHS Board areas)
 - Reach 50% of all emergency incidents within 8 minutes (Island NHS Board areas)
6. Progress against the first target is reported [here](#). It shows that 72 per cent of Category A calls across Scotland were answered within eight minutes for period 2010/11, compared with 72.3 per cent in 2009/10. Figure for Dumfries & Galloway³ for 2011/12 and show that 66.7 per cent of Category A emergencies were answered within eight minutes⁴.
7. Activity to address the needs of people living in remote and rural communities in Scotland was taken forward in 2008 through the Scottish Government's [Delivering for Remote and Rural Healthcare](#). The report recognised that the capacity of the NHS to respond in emergency or urgent situations in rural and remote parts of Scotland presented significant challenges to both the SAS⁵ and to territorial Health Boards. There was concern that these challenges could potentially lead to adverse impacts on clinical outcomes for patients living in these areas. The report recommended that "robust and responsive local community emergency response systems should be developed".
8. The Remote and Rural Implementation Group (RRIG), working in partnership with SAS and other stakeholders, was tasked with developing a Strategic Options Framework (SOF) for emergency and urgent response that would be applicable to the varied geographical and clinical service provisions across Scotland. The [SOF report](#), published in October 2009, set out the standards expected and the responsibilities of the various organisations involved in emergency and urgent responses in remote and rural areas. The Scottish Government believes the SOF represents a significant shift in the way that the NHS responds to the emergency and urgent care requirements of people living in Scotland's remote and rural communities, with the responsibilities of various organisations involved in responding to emergency and urgent situations for the first time described in one

² HEAT standards are targets that have passed their target date but are maintained to monitor their progress or used for other purposes e.g. benchmarking.

³ Dumfries and Galloway is defined as an "accessible rural area" which means areas of population are within 30 minutes of ambulance locations.

⁴ Personal correspondence with Scottish Ambulance Service.

⁵ SAS is a Special Health Board with responsibilities across the whole of Scotland to provide an appropriate accident and emergency response across a diverse geography.

place and supported by standards that service responses were expected to achieve. The SOF was developed as a tool to be used by SAS, in partnership with Health Boards, Community Health Partnerships (CHPs) and local communities.

9. In June 2010 the Scottish Government wrote to Health Boards and SAS. The [letter](#), accompanied by the SOF report, was intended to draw attention to the framework and the activities required to achieve it. Implementation of SOF included a minimum requirement for all communities to have access to Community First Responder training to intermediate level within the nationally recognised First Person on Scene (FPOS) scheme and within 30 minutes drive time.
10. [Working Together for Better Patient Care](#) is the Service's strategic framework for the period 2010-2015. It set out the role to be played by SAS in delivering on its strategic priorities, including those corresponding to the RRIG. The [Scottish Ambulance Service Annual Review 2010-11](#) reports on progress, including those relating to remote and rural communities.
11. Recent activity by NHS Dumfries and Galloway has focused on the introduction and development of the First Responder scheme in the area. There are now seven established sites in that area, with two currently in development (Moffat and Dalbeattie). The public meeting in Moffat (on 27 March 2012) was well attended, leading to approximately 20 local people expressing interest in participating in the scheme. However, no-one attended the meeting in Dalbeattie on 28 March 2012^{6,7}.

Committee consideration

12. SAS advised that it is exploring a range of community responder models across Scotland and is keen to engage with communities and share best practice. The Committee sought further information from the Scottish Government and SAS on response times and engaging with local communities. The following submissions have been received:
 - PE1432/E: Scottish Ambulance Service Letter of 10 October 2012
 - PE1432/F: Scottish Government Letter of 23 October 2012
13. A public Annual Review of the Scottish Ambulance Service, chaired by the previous Health Secretary Nicola Sturgeon, took place in August 2012. New simulation-based planning tools have been purchased. The Ambulance Service has confirmed its willingness to discuss any aspect of its performance with local communities. It has recently met with the community council in Dalbeattie. The establishment of a Community First Responder scheme for the area has been discussed and the recruitment for a new SAS Community Resuscitation Development Officer (CRDO) is underway.

⁶ We were informed that another public meeting is to be scheduled in Dalbeattie, which will be advertised in the local press.

⁷ Personal correspondence with Scottish Ambulance Service.

Action

14. The Committee is invited to consider what action it wishes to take in respect of this petition. In light of the recent actions and reassurances, it is recommended that the petition should now be closed on the grounds that the Scottish Ambulance Service has made improvements in performance, is taking steps to further improve its data gathering and has begun a process of engagement with the petitioner's local community.