

Environment and Public Affairs Committee

From: McGill D (David)
Sent: Wednesday, 15 January 2020 12:00 AM
To: Environment and Public Affairs Committee
Subject: Submission from the Scottish Parliament
Attachments: Annexe.docx

Dear Mr Swinbourn,

Thank you for your letter of 25 October 2019 inviting the Scottish Parliament to provide a written submission on the history and operation of our public petitions process.

I thought it would be helpful to structure my response into four key areas; a short summary of the background to public petitions in the Scottish Parliament; public petitions rules and standards; information about the petitioning process and examples of positive outcomes that have resulted from petitioning the Scottish Parliament.

I also address your specific question about frivolous petitions received by the Scottish Parliament at the end of this submission.

Background to public petitions in the Scottish Parliament

Prior to the Scottish Parliament being re-established in 1999, the all-party Consultative Steering Group, responsible for creating a blueprint for the Scottish Parliament envisaged—

“an open, accessible Parliament; a Parliament where power is shared with the people; where people are encouraged to participate in the policy making process which affects all our lives; an accountable, visible Parliament; and a Parliament which promotes equal opportunities for all”.

After a wide public consultation process, the Steering Group’s report, [Shaping Scotland's Parliament](#), was published in 1998 setting out how the Parliament should work. The report identified four key principles on which these practices would be based—

- Accountable - the Scottish Parliament is answerable to the people of Scotland. The Scottish Parliament should hold the Scottish Government to account.
- Open and Encourage participation - the Scottish Parliament should be accessible and involve the people of Scotland in its decisions as much as possible.
- Power Sharing - Power should be shared among the Scottish Government, the Scottish Parliament and the people of Scotland.
- Equal Opportunities - The Scottish Parliament should treat all people fairly.

The public petitions process is a key part of fulfilling the Parliament’s founding principles and is a practical means of enabling the people of Scotland to put matters of concern onto the agenda of the Parliament. Ongoing engagement with the petitioner is at the heart of the petitions process which often means that a strong relationship is developed between the petitioner and the Parliament during the lifespan of a petition.

Public petitions rules and standards

The Scottish Parliament is formally committed, through its own Standing Orders, to consider all admissible petitions that are submitted. The Standing Orders establish a mandatory committee, the Public Petitions Committee, with a remit to consider petitions submitted to the Parliament and in particular—

- (a) decide in a case of dispute whether a petition is admissible;
- (b) decide what action should be taken upon an admissible public petition; and
- (c) keep under review the operation of the petitions system.

Rule 15.5 of Standing Orders sets out the admissibility of petitions as follows—

- **Rule 15.4.2** - A petition must clearly state: (a) the name of the petitioner; (b) an address of the petitioner to which all communications concerning the petition should be sent; and (c) the name and address of any person supporting the petition.
- **Rule 15.5.1** - A petition is admissible unless it: (a) does not comply with Rule 15.4.2 or is otherwise not in proper form; (aa) is frivolous; (ab) breaches any enactment or rule of law; (ac) refers to any matter in relation to which legal proceedings are active; (b) contains language which is offensive; (ba) fails to raise issues of national policy or practice; (c) requests the Parliament to do anything which the Parliament clearly has no power to do; or (d) is the same as, or in substantially similar terms to, a petition brought during the same session of the Parliament and which was closed less than a year earlier.

Rule 15.4 of Standing Orders states that a petition may be brought in any language by an individual person (other than a member), a body corporate or an unincorporated association of persons.

A petition can be sent to the Scottish Parliament at any time when the office of the Clerk is open and the Parliament is not dissolved. Public petitions are received principally via the online petitions system however submissions can also be sent by e-mail or post.

In addition to the Standing Orders Rules referred to above, the Committee has published a determination on the proper form of petitions under Rule 15.4.3 of Standing Orders. The determination is intended to be read in conjunction with Standing Orders Rules and lists a number of more specific requirements required for a petition to be admissible, agreed by the Public Petitions Committee. Please find this information enclosed as an Annexe to this submission.

Irrespective of the way a petition is received, there is a specific format for petitions to the Scottish Parliament and all sections must be completed before the clerks can review it. The sections are as follows—

- Petition title - this should explain in as few words as possible what the petition is about.
- Petition summary - this section should be one or two sentences and state clearly what action the petitioner wants the Parliament to take.
- Previous action taken - a petitioner needs to have already taken some action to raise the issue such as contacting an elected representative or the Scottish Government before petitioning the Scottish Parliament.
- Background information - any other information to help MSPs understand the issue raised in the petition.

All proposed petitions submitted to the Scottish Parliament are reviewed by the clerks to ensure they comply with the rules and standards for petitioning the Scottish Parliament. The clerks will then

contact the petitioner with advice on their petition and suggest any amendments required to ensure the petition is admissible.

The petitioner can choose to collect signatures and comments on their petition for a period of up to six weeks before it is considered by the Public Petitions Committee (however this is not a formal requirement of the petitioning process). This approach differs to the UK Parliament, where the number of signatures received determines the action taken on a petition^[1].

Where a petition does not comply with the rules and standards (for example, where an issue is reserved to the UK Parliament or raises a personal or local issue) the clerks will communicate this clearly to the petitioner. In cases of dispute, the final decision on admissibility rests with the Committee.

All admissible petitions are published on the Public Petitions website and considered by the Public Petitions Committee. During the consideration of a petition, there are a number of different actions the Committee can take including—

- requesting written information from the Scottish Government and other organisations
- taking oral evidence on the petition from the Scottish Government, public bodies or other organisations
- referring the petition to another committee of the Parliament
- making recommendations for action by the Scottish Government
- asking for time in the Chamber to allow the petition to be debated by the Parliament
- closing the petition.

Public Petitions outcomes

It is often difficult to directly correlate specific outcomes with the petitions process or indeed a specific petition. However, the following petitions provide some recent examples of positive change that has resulted through the petitioning process—

- [PE1480](#) - **Alzheimer's and dementia awareness** – *Called for free personal care to be made available for all sufferers of Alzheimer's and dementia illness regardless of age. In 2019, new legislation that extends free personal care in Scotland to under-65s came into effect.*
- [PE1517](#) - **Polypropylene Mesh Medical Devices** – *Called for the Scottish Government to suspend the use of polypropylene Transvaginal Mesh procedures. On 21 August 2018, the Committee published its report in connection with this petition calling on the Scottish Government to halt the use of mesh procedures in Scotland, until there was confidence in the findings of the Independent Review set up to examine the controversial procedure. On 12 September 2018, the Scottish Government instructed health boards immediately to halt the use of transvaginal mesh altogether in cases of both pelvic organ prolapse and stress urinary incontinence, pending the implementation of a new restricted use protocol.*
- [PE1604](#) - **Inquests for all deaths by suicide in Scotland**– *Called for the Scottish Government to expand the remit of the review into the arrangements for investigating the deaths of patients under Section 37 of the Mental Health (Care and Treatment) (Scotland) Act 2015 to include an inquest-type system for all deaths by suicide in Scotland. In September 2017, the petition was closed as the Scottish Government agreed to extend the remit of section 37 of the Mental Health (Scotland) Act 2015 to include the deaths of patients who were receiving care in the community under compulsory treatment orders, as called for by the petition.*

Frivolous petitions

In your correspondence, you asked whether any petitions have been deemed inadmissible “on the grounds they are frivolous or vexatious pursuant to Rule 15.5.1(aa) of Standing Orders”. I would like to confirm that Rule 15.5.1(aa) of Standing Orders only refers to petitions that are considered to be “frivolous”. There is no rule within Standing Orders or the determination for vexatious petitions.

When considering the admissibility of proposed petitions, the clerks will review whether a petition is frivolous in nature in order to ‘sift’ these inadmissible petitions out of the system. It is worth noting that proposed petitions received in these terms are usually inadmissible for additional reasons. For example, the petitioner fails to demonstrate what previous action they have taken to raise their issue, or the petition asks the Parliament to do something which it has no power to do.

During 2019, no petitions received were deemed to be frivolous in nature.

Concluding remarks

I note that you are not specifically considering the introduction of an e-petitions system as part of your inquiry as this matter is currently before the Legislative Council for consideration.

While acknowledging that your request does not seek this information, I would like to highlight that e-petitioning is a fundamental aspect of the Scottish Parliament’s petitioning process. Public engagement with our e-petitions system continues to grow and this is demonstrated by the large number of petitions submitted to the Parliament and currently under consideration by the Public Petitions Committee.

As abovementioned, the remit of the Public Petitions Committee includes a responsibility to keep under review the operation of the petitions system. This is conducted on a regular basis to ensure that the system remains fit-for-purpose.

I trust that this information will assist the Standing Committee on Environment and Public Affairs in gaining an understanding of the history of petitioning the Scottish Parliament as well as our rules and processes and some positive outcomes that have resulted through this process.

For further information, you may wish to [read our guidance](#), which is intended to inform members of the public what they can petition about, what needs to be included in a petition and provides some information about using the petitions system.

All petitions can be found at the following weblink:
<http://www.parliament.scot/gettinginvolved/petitions/index.aspx>

I would be happy to provide further information in relation to any aspect of this submission, should this be of assistance to the Committee.

Yours sincerely,

David McGill

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Annexe

Public Petitions Committee - Determination on proper form of petitions

To be read alongside the Parliament's rules on public petitions, the Public Petitions Committee has made the following determination under Rule 15.4.3 on proper form of petitions.

- Petitions should be submitted using the Scottish Parliament's online petitions site. All sections should be completed.
- If an individual has no access to or difficulty in using the online petitions site, or if the site is unavailable, a petition may be submitted in paper form using the word template.
- A petition may be brought in any language. Where a language other than English is used, the Parliament will provide a translation.
- Petitions should be brief and state clearly what action is being sought.
- No supplementary information (such as correspondence, legal information, photographs, or copies of Freedom of Information requests) will be accepted as part of a petition.
- Petitions must relate to national policy or practice as opposed to a local or individual matter.
- Petition titles should be a short factual description that explains what is sought but not a slogan or campaign name. For example, "changes to the law about fatal accident inquiries" would be an appropriate title. "Betty's Law" or "Justice for Betty" would not be.
- Previous action taken on a petition must include raising the issue with a relevant decision maker such as the Scottish Government (or other relevant public body) or an elected representative such as an MSP.
- A petition will not be considered by the Public Petitions Committee if the same (or substantially similar) petition, submitted by the same petitioner, has previously been considered by the Committee and closed at its first consideration on three consecutive occasions.
- Petitions should not:
 - Name individuals or otherwise contain information that could lead to the identification of any individual. This excludes elected representatives and senior managers of public bodies.
 - Contain any false statements. It is the responsibility of the petitioner to ensure that statements are accurate.
 - Refer to any matter that is the subject of continuing court proceedings.
 - Seek an adjudication or decision on an individual or commercial matter.
 - Seek to involve the Public Petitions Committee in a decision that is more properly the domain of another body (for example complaints, court appeals, planning appeals, local authority expenditure decisions etc.)
 - Include language or wording that is defamatory, offensive, or inappropriate, for example swear words, insults, sarcasm or other language that could reasonably be considered offensive by a reader.