

# **PUBLIC PETITIONS COMMITTEE**

Wednesday 24 November 2004

Session 2

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## PUBLIC PETITIONS COMMITTEE

18<sup>th</sup> Meeting 2004, Session 2

### CONVENER

\*Michael McMahon (Hamilton North and Bellshill) (Lab)

### DEPUTY CONVENER

\*John Scott (Ayr) (Con)

### COMMITTEE MEMBERS

\*Jackie Baillie (Dumbarton) (Lab)

\*Helen Eadie (Dunfermline East) (Lab)

Rosie Kane (Glasgow) (SSP)

Campbell Martin (West of Scotland) (Ind)

\*John Farquhar Munro (Ross, Skye and Inverness West)  
(LD)

\*Mike Watson (Glasgow Cathcart) (Lab)

Sandra White (Glasgow) (SNP)

### COMMITTEE SUBSTITUTES

Frances Curran (West of Scotland) (SSP)

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Phil Gallie (South of Scotland) (Con)

Rob Gibson (Highlands and Islands) (SNP)

\*attended

### THE FOLLOWING ALSO ATTENDED :

Chris Ballance (South of Scotland) (Green)

Darren Ferguson

Alan Masterton

Michael Matheson (Central Scotland) (SNP)

Alastair Murdoch

George Reid

Mr Ken Stewart

Andrew Todd

Archie White

### CLERK TO THE COMMITTEE

Jim Johnston

### ASSISTANT CLERK

Joanne Clinton

### LOCATION

Committee Room 5



# Scottish Parliament

## Public Petitions Committee

*Wednesday 24 November 2004*

[THE CONVENER *opened the meeting at 10:01*]

### New Petitions

#### Building Regulations (Thermostatic Mixing Valves) (PE786)

**The Convener (Michael McMahon):** Good morning, colleagues, and welcome to the 18<sup>th</sup> meeting in 2004 of the Public Petitions Committee. Apologies have been received from Sandra White and Rosie Kane. I hope that the other members who are not yet with us but who have not sent apologies will turn up shortly. We have a busy agenda and, rather than delay further the start of the meeting, I propose that we start.

Item 1 is our consideration of new petitions, the first of which is PE786. The petitioner, Alan Masterton, has submitted the petition on behalf of the Scottish Burned Children's Club. He calls on the Scottish Parliament to urge the Scottish Executive to include in Scottish building regulations a mandatory requirement for thermostatic mixing valves to be installed in the hot-water systems of all new-build and renovated properties.

Alan Masterton will give a brief statement in support of the petition. He is accompanied by Darren Ferguson and Ken Stewart. I welcome all three witnesses. As is our normal practice, you have a few minutes to make your introductory remarks, after which we will move to questioning and then to the committee debate on the petition.

**Alan Masterton:** On behalf of the Scottish Burned Children's Club, I thank the committee for hearing our petition today. On my right is Mr Kenneth Stewart, a consultant paediatric plastic surgeon from the Royal hospital for sick children in Edinburgh. To my left is Mr Darren Ferguson. At only six months old, Darren sustained a bath water scald injury. In a few minutes' time, he will tell the committee a little of his journey.

Our motivation in submitting PE786 was borne out of frustration at the apparent lack of appetite among committee members' colleagues in the political world for a legislative end to the scourge of preventable scald injuries to children and the elderly, who are the weakest members of our society. For more than a year, we have kept a watchful eye on the progress of the thermostatic

mixing valve debate. The issue has been kicked from one committee to another; the only decision has been which committee to refer the matter to next, further deferring the matter. Our fear is that the issue will be kicked into the long grass and forgotten about, which is something that could never be tolerated.

We hope that the Public Petitions Committee will agree that that intolerable situation cannot be allowed to continue. While committees defer and prevaricate, our children turn up at accident and emergency departments at the rate of 2,500 per year, of whom 500 are admitted to hospital. Of that number, 65 per cent stay in hospital for more than five days and 75 per cent are aged 5 or under. All their injuries are bath scald injuries.

I ask committee members to think of their children and grandchildren, and then of the 10 children just like them who turn up at hospital every day with a hot water scald injury. How can we, as responsible adults and parents, allow that horror to continue?

We could produce all sorts of figures from the big, impersonal picture that highlight the tragedy of scald injuries, but the figures do not tell the personal story of the human cost of scald injuries: the cost in scald victims' loss of self-confidence and the continued and repeated pain cycle that such injuries create. Even with the best care and with the skill of people such as the gentleman on my right, the best skin graft will always be a poor substitute for the skin with which people were born.

Grafted skin does not grow and flex like your skin and my skin. It does not allow our bodies' thermostatic systems and nerve functions to operate in the graft area as they otherwise do. For every graft carried out, there is a graft donor site that is painful and uncomfortable. Let us build a safety fence at the top of the cliff and retire the ambulance down in the valley. Let us prevent this horror from happening in our homes and stealing the childhoods of our precious children. Let us put an end to lifetimes of constant medical treatment and to the psychological scarring that results from this most pernicious of preventable injuries.

The solution is Scottish, simple and inexpensive: it is to include in the new building regulations that are planned to be introduced in May 2005 the fitting as standard in all bathrooms of new-build and renovated properties of a thermostatic mixing valve, or TMV. This wonderfully simple piece of kit has been likened to having a sentry posted in the bathroom at all times, protecting your family—a sentry who will never sleep or fail you and who is always there to protect you and yours.

The TMV has two principal functions. First, it will control water temperature flow to the bath to within

1°C in a temperature range of between 40°C and 48°C. The second function is a safety shut-off. If, for any reason, the cold-water supply is lost, the valve will close the hot-water supply in less than a second, providing a second line of defence. There are no circumstances in which hot water will flow uncontrolled through the valve.

We are proud to inform the committee that a Scottish firm was the first to develop the technology, as far back as 1925. The technology is not new or untried. To this day, the Horne Engineering valve is recognised as the industry standard, against which all newcomers in the field test their product.

There has been much deliberation and many studies have been done on different methods of preventing bath scald injuries. The most in-depth survey carried out in the United Kingdom in recent times was the Wakefield district burns and scalds prevention project, which was funded by the Department of Trade and Industry and the Royal Society for the Prevention of Accidents. The report has just been published and I forwarded a copy to the committee clerk today to assist members with their deliberations.

The report deals with three different approaches to scald prevention: education, engineering and enforcement. It concludes:

“Undoubtedly, the use of TMVs”—

the engineering solution—

“had the greatest impact on reducing the risk of scalding by reducing the outlet temperatures.”

The report continues:

“The reluctance of parents to allow TMVs to be fitted in their homes”—

because of lack of knowledge about the valves—

“highlights the need for legislation to provide a permanent and effective solution to these preventable accidents.”

On behalf of the children of Scotland, I ask members not to prevaricate on this matter and, please, to engage in the sincere effort to have fitting of thermostatic mixing valves included in the May 2005 building regulations.

Government figures predict that an estimated 27,000 new homes will be built in the private sector in the next four years. Many thousands of homes will undergo renovations that will require building warrants. Over the next four years, an opportunity exists to build a safety fence in more than 40,000 homes by fitting TMVs. Conversely, there is the potential to lose, unforgivably, the opportunity to get rid of the ambulance down in the valley.

I ask you to afford the children of our country protection equal to that which is afforded to you and your colleagues here in this magnificent new

centre of democracy. No one will ever suffer a scald injury in this place, because those responsible for the future operational care of the showers and bathrooms in the building had the foresight and good sense to ensure that TMVs were fitted here for your safety.

Thank you for your time. I hand over to Darren Ferguson, who will say a little about his experience.

**Darren Ferguson:** Ladies and gentlemen, I have undergone 59 major operations, numerous minor operations and laser surgery. When I was a youngster and I was due to undergo an operation, I found it difficult to concentrate on school work before the op. When I am in pre-op, I am always anxious because I know that no matter how skilful my surgeons are, I will always be in pain when I awake—that is guaranteed. When I go to sleep, I know that I will be in pain when I awake.

When I am recovering from operations, I cannot disguise the fact that I have been injured or have recently undergone surgery. That is a fact of life for me. The constant staring, by kids and by grown-ups who should know better, makes life difficult for me, but I have come to accept how I am, and if others have a problem with my appearance, that is their problem, not mine. My physical injuries are plain for all to see, but I have others that cannot be seen. I was robbed of my childhood because I had to grow up and face things that none of my friends had to face. The injury that cannot be seen is the suffering of my family; no member of my family has been unaffected.

I understand that it would cost about £80 for TMVs to safeguard a family home. My hope is that politicians will listen to my story and realise that this petition is just plain common sense. How can anyone say that 21 years of physical and mental pain, a lifetime of disfigurement and the huge cost to the national health service are not worth an investment of £80 to save children and families from having to endure all that I and my family have had to suffer? Thank you for allowing me to tell my story.

**The Convener:** Thank you. I will take questions from the committee to explore the issue further.

**Jackie Baillie (Dumbarton) (Lab):** This is a highly persuasive case and we have heard some powerful testimony this morning. I have two questions. My first is to Ken Stewart, because having an appreciation of the scale of the difficulty would be helpful, as would hearing what he feels is the most appropriate way forward for the Parliament. My second question is to Alan Masterton. The former Transport and the Environment Committee took evidence on the Building (Scotland) Act 2003. Did you raise the

issue with the committee at that stage? If you did, what was the response? Obviously that was a legislative vehicle that would have been ideally suited to addressing the petition.

**Alan Masterton:** No. To be honest, we have been involved in the campaign only for the past year. We were really on the fringes of things last year but, having read everything that there is to read on the subject, we could not understand the hold-up.

Every year the Scottish Burned Children's Club takes 20 to 30 kids on a camp and we see at first hand the results of bath scald injuries. Ken Stewart sees them daily and we just felt that something had to be done. We have a simple, inexpensive solution and the club cannot understand why it has not been adopted.

**Mr Ken Stewart:** I had the information and statistics division collate the data for Scotland for the past five years. There were approximately 1,700 presentations to accident and emergency departments of children under 14 with burns. Of those cases, 121 related to tap water or bath water scalds; that is 7 per cent.

I have the figures for admissions to Edinburgh sick children's hospital for the past five years, which show that 17 per cent of admissions related to tap water or bath water scalds. In other words, burns from falling in a bath are generally more severe than they are from a hot cup of coffee. We classify burns according to the percentage of body surface area that is affected. Often, the percentage from bath water scalds goes up to 60 or 70 per cent, whereas a hot cup of tea will rarely cause more than a 10 per cent scald.

How deep and disfiguring a scald is depends on the temperature of the water and the duration of contact. If a helpless individual falls in a bath, they tend to be in contact with the water for a significant period of time, so not only are the percentages greater, but the degree of disfigurement is greater. Each scald is an individual tragedy. You have heard Darren's testimony. If you came to my clinic on a Friday afternoon, I could give you more examples.

There is also significant mortality. Unfortunately, every few years we have a child die of toxic shock syndrome related to scalds. The elderly in nursing homes and so on are also a vulnerable group. Every year in Scotland an elderly person dies from being immersed in hot bath water.

10:15

**Jackie Baillie:** In your view, are TMVs the answer?

**Mr Stewart:** TMVs will not prevent scalds from hot drinks, such as hot cups of tea and coffee, but

they will prevent 20 per cent of hospital admissions. We are not suggesting that they should be universally applied in every household, but we are asking for a progressive approach to be taken, and for them to be applied to new builds, so that ultimately every house will have them. That would prevent 20 per cent of children's hospital admissions, representing some of the severest thermal injuries.

**Mike Watson (Glasgow Cathcart) (Lab):** I have a couple of follow-up points related to Jackie Baillie's points. Are you aware of the valves being used anywhere else in the world?

**Alan Masterton:** Yes. They were originally created for use in institutions that were the precursor to the national health service. They go back to the days of steam, when calorifiers produced steam in laundries. Steam was used to heat water, but the water was being heated to boiling point, and it could not be used in the kitchens and laundry rooms. Initially, TMVs were called blenders, and were introduced to bring the water that was super heated by the steam to a temperature that they could cope with. In England and Wales, there are regulations to have them fitted in old folk's residential care homes. The vast majority of the general public is unaware that TMVs are available, as they are not marketed to them, so many plumbers' merchants do not carry them, because there is no demand. That was one of the problems in the Wakefield experiment. When people find out about TMVs, they think that they produce cool or tepid baths, so there is initial resistance, but once they are fitted and people see that you can have a hot bath without having a scalding bath, they gain wide acceptance. You cannot disagree with the figures, especially in the Wakefield report. In the 200 homes in which TMVs were fitted, there was not one, single hot water scald injury in two years.

**Mike Watson:** My other questions are on the practicalities. I seek clarification on what you are asking for: you are suggesting that the Scottish building regulations that will come into force in May next year should demand that every new house built after then should fit TMVs.

**Alan Masterton:** That is correct. We are not asking for the policy to be retrospective; we are saying that it would be a damn good start if, as of May next year, a condition of the granting of any new building application or application for a renovation should be to install such a valve. A gradual approach should be taken. We honestly believe that once people get used to having TMVs in their homes, the news will spread and people will see the benefits. I hope that, through time, every home will have one.

**Mike Watson:** Darren Ferguson states in his letter that his understanding is that it will cost

about £80 for a TMV to protect a normal home. Would that include the cost of adapting an existing home water supply?

**Alan Masterton:** No. The question is a bit like asking how long a piece of string is. I have the entire set-up in front of me. Currently, the valve costs £80. If a residential home bought 50 valves, they would cost £80 each. Economies of scale mean that the manufacturers reckon that they can bring the cost down to the region of £50 and maintain their profit margin. It would probably cost another £100 to convert an existing property, as it would be necessary to modify the existing plumbing.

To fit the mechanism into a new-build home would cost nothing extra other than the price of the valve. It would be as easy to plumb in the valve as it would be to run a bath or a shower as they are currently plumbed; other than the price of the valve, it would make no difference to the cost of the plumbing.

**Mike Watson:** I have a final question. You might not be able to answer this question, but do you know what it would be necessary to do to introduce a requirement to install such valves to the building regulations from 2005? I see that guidance has been issued subsequent to the passing of the act. What steps would need to be taken between now and May 2005 to have the fitting of such valves included in the regulations?

**Alan Masterton:** I cannot say what the legislative process would be.

**Mike Watson:** I understand.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** There is no doubt that you have highlighted a serious problem. The remedy is simple, if it is accepted. I am sure that any reasonable individual who was considering the regulations would not fail to support what you have suggested.

You referred to bath water. I can see that it would be simple to fit a thermostatic mixing valve to control the water that flows into the bath, but what about the rest of the house? I am thinking of the kitchen sink and the washhand basin in the toilet. Could the valve control all water outlets in the building?

**Alan Masterton:** Yes. The company recently fitted one to Darren Ferguson's home. Because of the legionella threat, the valve can only be fitted within 2m of the outflow, but it can be fitted strategically in the bathroom, so that it can feed the sink and the bath; as long as the outflow is within 2m, one valve can take care of both.

Another valve would be needed for the kitchen sink. However, research shows that higher temperatures are often required at the kitchen sink

to deal with grease and other horrible things that stick to cooking utensils. The temperature of the water that is delivered when a valve is fitted would not handle such cleaning. We appear before the committee today to try to have the mechanism fitted to baths; it will not be a panacea for all scalds and burns. However, if we fit the valve in bathrooms, it will save 20 per cent of kids from turning up at hospital. That is good enough for us to be going on with for the time being.

The valve could be fitted in several bathrooms and in the kitchen. If someone who has a dishwasher wants to have added safety at the kitchen sink, they could let the dishwasher handle the stuff that needs hot water and have a valve fitted at the sink. That would not be a problem.

**John Farquhar Munro:** Is it correct that the valve comes with a preset temperature setting that cannot be interfered with?

**Alan Masterton:** It can be interfered with to suit the environment—the blue bit at the bottom of the valve is used to alter the setting. In Wakefield, where there are lots of old properties with cast-iron baths and single glazing, it was found that the temperature that was delivered from the valve had to be towards the upper limit at the point of outflow to maintain a bath temperature of about 42°C, which is a hot bath. In Scotland, especially in new-build properties with plastic baths, double glazing and insulation, the delivery temperature could probably be screwed down. The engineer or plumber sets the temperature at the time of fitting. Once the temperature is set, the cap goes back on and a special security key is needed to get into the valve to adjust the temperature.

**John Farquhar Munro:** That is really just a copy of shower units, which have a temperature control.

**Alan Masterton:** No, they are not the same, because the valves do everything internally. I referred to them as simple, but they have a fairly sophisticated temperature-control mechanism in the centre that does everything automatically—nothing has to be varied.

**John Farquhar Munro:** Thank you. The case you have made this morning deserves serious consideration and I am supportive of it.

**Helen Eadie (Dunfermline East) (Lab):** I apologise for arriving after you started, Mr Masterton. Like my colleagues, I find your case compelling. You say that you envisage valves being installed in every new-build property, but given what you have said this morning, is there a case for it to be compulsory for valves to be fitted retrospectively in all care homes and hospitals?

**Alan Masterton:** I agree whole-heartedly, but we are realists and we would hate to lose the



opportunity to get the valves into bathrooms by asking for too much. I do not mean to be disrespectful, but the fewer committees that the proposal has to go to, the better. More and more problems will be created if we ask for more and more. Of course, it would be superb to put the valves into care homes, because the elderly are another section of society that is susceptible to horrific burns. The incidence of death from such burns is high among the elderly because of toxic shock. The suggestion would have untold benefit.

We should bear in mind the fact that the valves have two functions: they control the temperature within a 1°C margin; and they act as a shut-off valve, so that if, for any reason, the cold water is cut, the valve will not deliver hot water and will close in less than a second. In an old folk's home in England, an old chap turned on the hot and cold water in his bath and went to take off his clothes, but, unknown to him, the water company was working in the street and closed off the cold-water supply. When the man stepped into the bath, the shock killed him because pure hot water had gone in. If a valve had been fitted to his bath, the incident would not have happened, because the safety feature would have shut off the hot water automatically when the cold water was shut off.

**Helen Eadie:** You are absolutely right. Some years ago, exactly the same happened to an old lady in a care home in Fife. Last week, I was in a hotel where the water was absolutely scalding. None of us has mentioned hotels, but they should also have a duty to install such valves.

**Alan Masterton:** It is estimated that in 92 per cent of Scottish homes, hotels and institutions, the hot water is at a temperature that would scald a child in less than three seconds.

**Mr Stewart:** Many scalds happen to children of families who are living in temporary accommodation. Significant legislation exists on multiple-occupancy homes and it could be argued that the valves should be made compulsory in rented accommodation. Accidents often happen when families move into temporary accommodation, because the usual safety mechanisms that families inevitably build up suddenly disappear. Such families are a very vulnerable group.

I agree that it would be ideal to install valves in schools, old people's homes, hotels and such environments. However, if an environment can be created in which the valves are the accepted norm, the lawyers will take care of the rest by ensuring that nursing homes, for example, do not dare to take care of people without having valves fitted.

10:30

**The Convener:** We have heard a convincing argument, but to whom should we send the petition to progress it?

**Jackie Baillie:** I would like to say a number of things before I make recommendations. Unfortunately, there has been a missed opportunity with the Building (Scotland) Act 2003. That said, we must clarify whether the matter is for primary or secondary legislation. The opportunity has not been entirely missed if it is for secondary legislation.

Rather than pre-empt what the Executive will say to us, I suggest that the committee seems strongly to support the measures that have been outlined and that it takes the petitioners' view that the issue should essentially be about TMVs attached to baths in domestic households. It is right to say that doing what is proposed will change the accepted norm. If we propose something that is retrospective and too wide, it will be difficult to deliver, so to deal with the narrow point would be right. We should therefore write to the Scottish Executive to say so and to ask whether it can introduce secondary legislation. We should also write to the Scottish Building Standards Agency. That would probably be enough at this stage, although I would be keen for Ken Stewart to supply some data and an estimate of costs for when the committee considers the matter again. I do not mean information on the cost of valves but—aside from the human costs that we have heard about today—the costs to the national health service of not taking action. That would be helpful in making a case.

**The Convener:** I apologise to Michael Matheson. I indicated that I would call him to speak before we discussed recommendations, but I forgot to come back to him.

**Michael Matheson (Central Scotland) (SNP):** Perhaps I can assist the committee with a couple of points of clarification about the Building (Scotland) Act 2003 and how it operates. From my experience of dealing with fire sprinklers, provisions on which will be introduced into that act next year, I understand that the legislation acts in effect as a framework into which new building regulations can be inserted. If ministers were inclined to pursue the introduction of thermostatic mixing valves through regulations, they would publish draft regulations, consult on them and then insert them into the act through a statutory instrument. Therefore, the matter is for regulation rather than primary legislation.

In discussing the petition, we have debated whether what is proposed should be applied retrospectively. As I said, I have experience of pursuing proposals relating to fire sprinklers. If the

main objective is to try to get thermostatic mixing valves installed into the 40,000 houses that will be built over the next four years, we should start the process. The ball is rolling and we can start to change the culture of thinking about what we should do in other properties when they are being renovated by local authorities, for example. The Scottish Burned Children's Club has decided to pursue a progressive approach to try to change thinking on the matter.

It may be helpful for members to be aware that the Office of the Deputy Prime Minister is reviewing the relevant English and Welsh regulations. I understand that the issue is not so much about whether valves should be installed, but that the regulations are being reviewed with a view to trying to identify what might be the best valve to install. No comparable review is taking place in Scotland. I understand that the Executive is likely to say that it will await the outcome of the ODPM's findings but, given the experience to date, it seems that the case for installing the valves has already been well made and that they have a history of being effective. It seems rather pointless to drag out the matter for another couple of years by debating which valve should be installed.

**Alan Masterton:** The specific valve that Home Engineering Ltd produces is available in Scotland now and exceeds the standard of the valve that has been considered for the English and Welsh legislation.

**John Scott (Ayr) (Con):** I, too, am concerned about what the petitioner says and am convinced of its value. I also sat on the then Transport and the Environment Committee when the Building (Scotland) Act 2003 was considered. You will be aware that guidance was published on 1 November, following that legislation.

Jackie Baillie suggested that we write to the Executive; I think that she is right, but I think that our letter to the Executive should also seek clarification of whether the guidance that has been issued is intended to instruct, in the most general sense, that such appliances be fitted. It appears that the petitioners did not submit evidence to the then Transport and the Environment Committee during the consultation or in person, but it may well be that others did.

It may also be that the guidance is intended to cover what we are being petitioned about. The guidance states:

"Every building must be designed and constructed in such a way that protection is provided for people in, and around, the building from the danger of severe burns or scalded from the discharge of steam or hot water".

That guidance was issued on 1 November, and it may be that that covers your concerns. I feel that

we need clarification on that from the Executive. I certainly support what the petition says, because I was unaware of the valve when I served on the then Transport and the Environment Committee as the Building (Scotland) Bill was going through Parliament.

**The Convener:** It is worth pointing out that the information that the clerks have is that the guidance does not refer specifically to TMVs, so that would have to be clarified with the Scottish Executive.

**John Scott:** Given that other such valves are apparently on the market, the Executive may have wished not to be specific.

**Alan Masterton:** There is nothing on the market that performs as that valve does.

**Mike Watson:** My concern is that we should move on the matter as quickly as possible. I am aware of what Mr Masterton has said about not wanting to be pushed from pillar to post. We do not want further delays and May 2005 is a possible deadline for achieving something.

The committee's record on securing swift responses from the Executive is not great, which is no reflection on the clerks. I wonder whether there could be a more direct approach, perhaps by the petitioners themselves, to get a quick response so that something can be done by 2005. That deadline is less than six months away. Michael Matheson may be able to tell us whether the regulations are updated every year under the legislation. When would the next opportunity be, if the May 2005 deadline were to be missed for any reason?

**Michael Matheson:** I do not think that the regulations are formally reviewed every year—they are reviewed if there is a requirement for change. A working group was established this year, which has responsibility for informing ministers of possible updates to the regulations as and when necessary.

**The Convener:** If necessary, I write about petitions directly to ministers rather than to officials. If we have a general query for the Executive, it would go to the officials in the relevant department. It has sometimes been necessary for me to write directly to the minister. In that letter, I can ask for a speedy response. Would that satisfy you?

**Mike Watson:** I think that it would.

**The Convener:** I would be happy to do that.

**Helen Eadie:** I am happy with that and with other suggestions. Another suggestion is that we write to the Thermostatic Mixing Valve Manufacturers Association and to the Scottish and Northern Ireland Plumbing Employers Federation.

In my own home, I have a boiler that I can alter simply to adjust the settings to the appropriate water temperature. I believe that all boilers for the past 20 years have been able to do that, with both gas and electric thermostats. It might be helpful to get a view from those organisations on that.

**Alan Masterton:** Boiler temperature must be maintained above 60°C to dispel the possibility of legionella. That means that whatever happens, the boiler cannot do the job that the valve does. The heat source must heat the water to a temperature in excess of 60°C and the water must be carried through the pipes at a temperature of 60°C. The valve must be fitted within 2m of delivery, which is the pipe length that the federations regard as being safe if the water temperature is to be less than 60°C without risk of legionella.

**The Convener:** Do we agree to write to the appropriate people, as members suggested?

**Members** *indicated agreement.*

**The Convener:** Mr Masterton, members of the committee appear to be well convinced by your presentation. We will pursue the matter and get back to you when we receive the responses that we seek. Thank you for your time.

**Alan Masterton:** Thank you.

### Council Tax (PE787)

**The Convener:** The next petition is PE787, from Alastair Murdoch, on behalf of Scottish Action Against Council Tax. The petition calls on Parliament to introduce legislation that would provide for the replacement of council tax by a system that is more closely related to the ability to pay. Alastair Murdoch is here to give a brief statement in support of his petition. He is accompanied by Archie White and Andrew Todd. I welcome the witnesses, who may take a few minutes to make an oral presentation, after which we will discuss the issues that they raise.

**Alastair Murdoch:** We thank the convener and members for their invitation to appear before the committee. It is no exaggeration to say that the council tax is as unpopular as the poll tax was. Opposition to the tax comes from all sections of the community and includes people who are in employment as well as pensioners. There is opposition from across the political spectrum, including from people who might support the Labour or Conservative parties on some issues.

There have been draconian increases of around three times the rate of inflation during the past 11 years, but quite apart from that, the council tax is unfair because it has two related and fundamental flaws. The petition highlights those flaws. My colleague Andrew Todd will talk about them in a little more detail.

**Andrew Todd:** The first flaw that I highlight is the basis for the assessment of council tax—the value of property—which is the same in principle as the basis for the long-discredited rates system. That assessment cannot be related to the level of usage of local services. The fact that the tax is levied only on householders means that the burden is not fairly shared and we feel strongly that all those who use services should contribute in accordance with their ability to pay. Let us face it; it is people, not houses, who use services.

The second main flaw in the system is that the council tax bears no relation to income. High-income households might pay about 3 per cent of their net income in council tax, whereas people on modest wages or pensions might pay as much as 30 per cent of their net income. That can never be fair or equitable.

10:45

To the best of our knowledge, the fairest personal tax system that has yet been devised is a progressive tax that is based on income and individual circumstances. Why should tax for local services be an exception to that? The aforementioned basic flaws result not only in unfairness and personal hardship, but in an extremely inefficient tax that is difficult to administer and has never been collected in full, possibly because for many people it is unaffordable. That has led to massive arrears, of the order of £130 million in 2001-02, according to the Accounts Commission for Scotland.

To make matters worse—we have this in writing from the leader of a local council—

“those who pay include a surcharge”

of 3.5 per cent

“for those who do not.”

In addition, council tax is an expensive tax to collect, being at least four times as costly to collect as national income tax. Proposals to tinker with council tax by increasing the number of bands would not address its flaws but would merely perpetuate a bad system and bring it even closer to the discredited domestic rates system.

Mr Archie White will now give a brief summary.

**Archie White:** We believe that property taxes are not appropriate for regular payments such as council tax. The value of a person's home does not provide them with a regular income from which they can pay their council tax, and the value of their home might bear no relation to their income—as you would know if you lived in a single end in Partick.

The council tax is unfair and inefficient and should be replaced by a system that is related

more closely to the ability to pay. We note that the Scottish National Party, the Scottish Socialist Party, the Liberal Democrats, the Scottish Green Party, the Scottish Senior Citizens Unity Party and the four independent MSPs all oppose the council tax, and we note that the Scottish Labour Party has undertaken to examine all options carefully in the review of local government finance. With good will, it should be possible to achieve consensus on an income-based local tax.

**The Convener:** Thank you, gentlemen. Do members wish to ask questions?

**Jackie Baillie:** I have just one question, because the arguments have been well rehearsed over the piece. Are you saying that whatever replaces the council tax should be related only to income? Should not people's assets be considered?

**Andrew Todd:** We have said that an individual's personal circumstances should be part of the assessment.

**Jackie Baillie:** To be absolutely clear, does that include property?

**Andrew Todd:** No, it does not, in the same way that national income tax does not take account of property unless income is derived from it.

**Archie White:** I will speak personally as I cannot speak for the others, but I am not opposed to a tax on property. However, I do not believe that property is a suitable base for council taxes. If you want to tax property, why not put a capital gains tax on the profits from house sales or ratchet up stamp duty? I mentioned Partick because it is quite close to me; in Partick, there are long-term residents who live in single ends, which now sell for £140,000. They might not be too badly off at the moment, because the most recent revaluation was in 1992 or 1993, but if a revaluation was done now their houses would shoot a long way up the bands. People can release income from their property by downsizing, but why should they have to leave their family home? They can release income by remortgaging, or if they hold enough they can take out an equity release plan, but those things are not regarded as sensible financial planning. They are last resorts.

**Helen Eadie:** If I may, I will return to the theme that Jackie Baillie raised. Let us say that my house is worth £400,000 and, as a pensioner, I am living on the most modest of pensions—the state pension only. Let us also say that I live near a family that is living in a former council house or any sort of low-priced property—let us say that it is valued in the region of £70,000. Do you not think that, even if their income was treble my income, I should also pay council tax? Surely I should do so for a variety of reasons, including on equalities grounds? As Jackie Baillie rightly pointed out,

pensioners such as those in my example that have an asset: I could opt to stay in my house or downsize and release some of my capital.

**Andrew Todd:** My answer to that is to ask the question, "What is the purpose of the council tax?" I understand that its purpose is to pay for about 25 per cent of local services, the rest being met by government grant. I think therefore that the example is not relevant to the issue under debate. Other issues may be involved, but I do not accept your point in the context of the funding of local services.

**Helen Eadie:** What I was trying to say was that my total wealth would be so much more than anybody else's wealth. My total assets and means would mean that my ability to pay would be greater than was the case for the family in the much more modest home. What if the house was not my only home? I might have another home elsewhere that was valued at—let us say—£100,000. We have to look at the total picture. The debate is not just about cash resources but about the totality of a person's wealth, which includes their property assets.

**Andrew Todd:** I see the point that the member is making. However, the same argument could be applied to income tax, but no one is suggesting that that should be the case.

**Mike Watson:** I have a couple of points to raise. You have made a submission to the independent review of local government finance.

**Alastair Murdoch:** Not yet.

**Mike Watson:** But you are going to do so.

**Alastair Murdoch:** Yes.

**Mike Watson:** Given that that process is ongoing, it would seem that it is the most appropriate place for the issue to be debated.

As you were speaking, Mr Todd, I noted down some of the points that you made. If I quote you correctly, you said that

"people, not houses ... use services."

The basis of the poll tax was that everyone should pay; you will remember the outcry that followed the introduction of that tax in Scotland. In that respect, how does your suggestion differ from that of the poll tax?

**Andrew Todd:** In that particular respect, the poll tax did not take account of a person's ability to pay, with the exception of the very poorest people in society. We are not arguing against the fact that everyone is theoretically liable to pay the poll tax.

**Mike Watson:** Basically you are saying that only people in paid employment would pay for the services. Is that correct?

**Andrew Todd:** No. I am saying that, in theory, everyone who uses the services should pay according to their means. If someone's personal circumstances do not allow them to pay in practice, the tax should be automatically adjusted to account for that, as is the case with income tax and so forth.

**Mike Watson:** I appreciate the clarification. Your answer leads me to my second point. You have suggested three possibilities that you believe merit consideration. I will come to the first one later, but the remaining two suggestions are for a national tax that would be collected through the pay-as-you-earn system and for an income tax that would be collected by the Inland Revenue.

Let us leave aside the fact that the Inland Revenue would have considerable additional costs if it were to become involved in an area in which it has no involvement at present. Surely, if someone is on PAYE or they are paying tax to the Inland Revenue, they are earning. Does that not return us to the point that, if someone is not earning, they do not exist as far as the Inland Revenue is concerned? Surely quite a dramatic increase in bureaucracy would be required if people who are not working and therefore not paying income tax were to be pulled within the ambit of the Inland Revenue.

**Andrew Todd:** I am not currently working, but I pay income tax. I have a retirement pension.

**Mike Watson:** I take the point, but if someone is not paying income tax they are not in the system. Those people would have to be added to the system.

**Andrew Todd:** If someone is not paying income tax at all, that implies that they do not have any income or they do not have a taxable income.

**The Convener:** I will clarify that point. A number of people who earn substantial amounts of money would pay corporation tax or some other form of tax through their company, rather than personally through PAYE. It is conceivable that wealthy people would fall outwith your requirement for them to pay through PAYE.

**Archie White:** That was not our intention. We are not tax experts; we are taxpayers. Everybody who can pay should pay. We used the example of income tax, because it is the system that we are most used to. I agree with the point about corporation tax, although I do not know the detail of how we would address that. On Lord Watson's point about pensioners, if someone is getting a pension of £200,000 a year, which some people are, they should certainly pay.

**Mike Watson:** One thing we are certainly agreed on is that, like the petitioners, none of us is

a tax expert, but those points have to be taken into consideration.

**Andrew Todd:** Indeed.

**Mike Watson:** My final point is about your first suggestion of funding local government expenditure entirely from central Government grants. You give the figure of 75 per cent of funding coming from central Government, but I think it is 85 per cent, with 15 per cent coming from council tax, which does not necessarily change the thrust of your argument. If your suggestion were implemented, local authority services would be paid for by a flat-rate tax throughout Scotland, so wherever someone lives in Scotland, they would pay the same. You will be aware of the vast differences that there are in council tax payments at the moment. You are in effect arguing for a flat rate.

**Andrew Todd:** Not necessarily. Local authorities would have budgets, as they do at the moment. As far as I understand the tax system, it is sufficient. You can criticise computer programming if you like, but I do not think it is rocket science to adjust for local authorities' budgets and to address anomalies that might occur through the means we suggest. After all, local authorities set the tax at the moment.

**Archie White:** I will give you an example on that point. Mike Watson talked about just one of the options that we suggest, which has been suggested by the UK-wide is it fair campaign, which has produced a substantial paper on the suggestion. The campaign has produced its costings with professional help and has reached conclusions that give UK-wide, rather than just Scottish, figures. The campaign concluded that the amount that is currently raised by council tax could be increased by leaving the lower rate of income tax at 10 per cent, raising the standard rate from 22 per cent to 24 per cent, raising the higher rate from 40 per cent to 44 per cent and increasing VAT by 17.5 per cent to 19 per cent. The more someone earned, the more they would pay.

**Mike Watson:** If suggestion (A) is not saying that there should be a flat-rate tax, it is in essence exactly the same as suggestion (C)—I cannot see any difference between the two. You are talking about some form of local income tax, collected by the Inland Revenue. If suggestion (A) is not asking for a flat-rate tax throughout Scotland, the tax would be differential depending on the local authority and would, in effect, also be collected by the Inland Revenue, so there is no difference between suggestions (A) and (C).

**Archie White:** The difference is that under suggestion (A) the tax would be raised by the national Government; the local authorities would have no say in what rates of tax were set.

**Mike Watson:** I am sorry, but that contradicts what Mr Todd has just said.

**Andrew Todd:** I said that local authorities setting the tax rate was a possibility, if we wanted to make them accountable in that respect. We are not saying exactly how the system should be implemented; we are saying that the present system is wrong, bad and illogical and that a better system needs to be found. We are suggesting that the rate should be set according to people's ability to pay, which is what general taxation is based on. Dealing with the nitty-gritty is another matter, but I do not think that adjusting council tax to get the Inland Revenue to raise the money for council services is rocket science.

11:00

**The Convener:** I have a point of clarification. Are you saying that, regardless of what system is considered, the council tax must go because it is illogical?

**Alastair Murdoch:** Yes, the existing council tax system must go.

**The Convener:** But your fundamental premise is that ability to pay should be assessed.

**Alastair Murdoch:** Exactly.

**The Convener:** Is it not conceivable that you could retain the council tax system but adjust the assessment of ability to pay?

**Alastair Murdoch:** In what respect?

**The Convener:** At the moment, if someone is assessed as unable to pay council tax, the council tax benefit system kicks in and the tax is paid for them. Adjusting the level at which those benefits kicked in would mean that more people who were unable to pay would fall into the category that you want to be covered. The fundamental adjustment would be made in relation to the ability to pay.

**Alastair Murdoch:** The current council tax benefit—let us call it the safety net—caters for a third or perhaps 40 per cent of council tax payers. The fact that the safety net is so big indicates that there is something basically wrong with the system. If I understand you correctly, you are suggesting that that safety net should be extended.

**The Convener:** My specific question is whether your petition is saying that any adjustments in assessing ability to pay cannot be based on the council tax. In other words, the assessment of someone's ability to pay could be based on income tax or any other tax, but not council tax.

**Andrew Todd:** The council tax ceases to be progressive in relation to ability to pay when the safety net terminates. Other contributions are not

in the least bit progressive and are not related to ability to pay.

**Jackie Baillie:** I suspect that we could discuss this matter all morning but, with all due respect to the petitioners, I do not think that we would achieve much.

The discussion so far has illustrated the topic's complexity and demonstrated that there are no simple solutions. Although the petitioners broadly agree that the existing system is bad, I am certainly confused about some of the options that merit further consideration. On that basis, it is safe to conclude that there is no single clear and simple solution and that we need a combination of approaches.

I suggest that we submit the petition to the Executive's independent review, which will have the time to consider all these points. I am sure that the petitioners will follow that matter up in any case. We should also refer the petition to the Local Government and Transport Committee, which is about to start its stage 1 consideration of the Council Tax Abolition and Service Tax Introduction (Scotland) Bill, which is Tommy Sheridan's member's bill.

**The Convener:** Do members agree that Jackie Baillie has suggested a useful solution to the question of how to proceed with the petition?

**Members indicated agreement.**

**The Convener:** I thank the witnesses for bringing the petition forward for discussion this morning.

### National Anthem (PE788)

**The Convener:** Our next petition is PE788, by George Reid, who calls on the Scottish Parliament to legislate for the introduction of a national anthem for Scotland. I welcome to the meeting Mr Reid, who is accompanied by Chris Ballance MSP, and invite him to make a brief statement to the committee in support of the petition.

**George Reid:** Thank you, convener. I will not require three minutes.

I am very grateful for the opportunity to address the committee, because it allows me to say thank you for the courteous hearing that I was given when my petition was first discussed just over a year ago and for the advice that the convener gave me. At that time, the committee believed that the Scottish Parliament did not have the power to commission an anthem and that that authority had been reserved to Westminster under the Scotland Act 1998.

I was advised by the convener to pursue the matter through my MP. I did so, and Mr John Barrett attempted to ask a question in the House

of Commons, but was told by the table office that he would not be permitted to do so. I then wrote to the Secretary of State for Scotland, which gave rise to copious correspondence with the Department for Constitutional Affairs, the outcome of which was that the Scottish Parliament did in fact have the authority to commission an anthem of its own if it chose to do so.

An interesting product of my research is the fact that "God Save the Queen" has no basis in statute and has not been proclaimed by royal proclamation.

Earlier this year, Mr Chris Ballance lodged a motion calling for "A Man's a Man" to be chosen as the official Scottish anthem. He was unaware of my petition at that time, but when I informed him of it he confirmed that he would not demur if a new anthem were to be the chosen course.

*The Scotsman* recently conducted a poll listing a number of established songs along with the possibility of a new anthem, and asked for votes to be cast by text. The majority vote—admittedly by a small majority—was in favour of a new anthem. I am confident that a vote by people such as me, who are incapable of sending texts, would have resulted in a clear majority for a new composition.

I make it clear that I am not proposing to abandon "God Save the Queen". I am a unionist, and "God Save the Queen" is the anthem of the United Kingdom. It is the appropriate anthem for occasions such as the remembrance services that we had earlier this month and for other occasions when Her Majesty is present.

In light of what we now know, I trust that the committee will give my petition a fair wind, that it will be considered by the Parliament and that the result will be an anthem that will take its place alongside the great national anthems of the world.

**The Convener:** I put on the record the fact that the previous petition, PE660, called not for legislation but for the Scottish Executive to take the necessary steps to organise a competition to compose an official anthem. As I understand it, given that there did not appear to be any dubiety regarding the admissibility of PE660, the committee did not get legal advice as to whether the Parliament could legislate in the area. I say that for clarification. As Mr Reid said, he has established that legislation can be introduced here, hence this is a new petition, which asks for something different.

I will come to Mr Ballance in a minute, but do members have questions?

**John Scott:** Does Mr Reid have any suggestions as to how *The Scotsman's* poll might be broadened to include other proposals?

**George Reid:** I am not sure. Scotland has many gifted poets and musicians. Surely there is a way of sponsoring a competition that would invite contributions to be considered by a panel, for example, which could then advise the Parliament. I see no difficulty in composing a suitable anthem.

**The Convener:** Does Chris Ballance wish to contribute?

**Chris Ballance (South of Scotland) (Green):** Yes, thank you.

I proposed Burns's "A Man's a Man" after seeing a preview of a television documentary at the Wigtown book town festival that advocated it as the national anthem—I declare my interest in Wigtown. If we have a Scottish national book town that is endorsed by the First Minister, a newspaper-endorsed competition to endorse a Scottish national bird and a Scottish flag that has been endorsed by the Parliament, why not have a Scottish national anthem?

Mr Reid contacted me about his earlier petition, and I was pleased to join his campaign. I make it clear that I am not fixed on "A Man's a Man". For me, that is the starting point of the debate. The important issue is to have a debate throughout Scotland on the possibility of selecting a song that is generally acceptable.

As members may recall, Mr Reid is the man who, through the Public Petitions Committee, persuaded the Parliament to endorse a Pantone number for the saltire. He did so through a petition that was referred to the Education, Culture and Sport Committee. I suggest that that sets a precedent and that PE788 could be referred to the Enterprise and Culture Committee.

**Jackie Baillie:** As a former member of the Education, Culture and Sport Committee, I inform Chris Ballance that the petition to which he refers does not set a precedent for any other. It is important to put that on the record.

There is a variety of options. We have seen *The Scotsman* run polls for a national bird and associate certain MSPs with that campaign, which caused us a degree of merriment. I am sure that if we held a straw poll at today's meeting there would be 101 different suggestions for a national anthem. Why is this issue a priority, when we have so many other things to worry about? That is a question that people will genuinely put to us. Why should we spend a significant amount of time on this matter?

**Chris Ballance:** Because it is part of our cultural identity, of being Scottish and of being in Scotland. A national anthem would also be an excellent extra identifier and emblem for Scotland when we sell Scotland abroad. It would help us to create the brand—I hate that term, so I would put it in

inverted commas—of Scotland abroad. As well as serving as an extra identifier for Scotland, a national anthem would help to create the identity of Scotland for each individual who lives in the country.

**The Convener:** Are you saying that the Scottish Parliament can legislate to create a culture? We may be dancing on the head of pin, but I believe that although Parliament can legislate in areas of culture it cannot legislate to create a culture. Are you saying that by giving Scotland a national anthem through legislation a culture would develop that is different from the one that has developed to date?

**Chris Ballance:** No. The role of Parliament is to try to establish what public opinion is and, on that basis, to endorse a song. It does not have to do so through legislative means. I would like the Enterprise and Culture Committee to hold a short inquiry—I emphasise the word “short”—which would produce a suggestion based on what appeared generally to be the most wanted and accepted option.

**Helen Eadie:** I recommend that we write to the Scottish Executive and ask for its opinion. I have received no representations on the subject in my mailbag, or in e-mails or telephone calls. That does not mean that that will not now happen, but we must take seriously the point that Jackie Baillie makes. Politics is always about the language of priorities. If this is a priority for the people of Scotland, I am sure that they will let us know. In the meantime, we should find out the view of the Scottish Executive.

**Chris Ballance:** There has been a huge amount of media coverage of the issue and there is considerable media interest in it.

**Helen Eadie:** Is it a case of the media trying to make the news or of their reporting the news? Politicians must constantly bear that question in mind. We know what the media are up to: they like to fabricate stories. Sometimes they like to report the facts, but we take what they say with a modicum of salt.

**The Convener:** Chris Ballance appears to be suggesting something different from Mr Reid, who is asking specifically for legislation to be introduced.

**George Reid:** I am unfamiliar with the processes through which Parliament takes decisions. I am not necessarily asking for legislation. In the case of the colour of the flag, the Parliament proceeded by means of recommendation. There are other ways of getting things done, apart from legislation.

I remind Helen Eadie of the first line of PE660, which states:

“A National Anthem is defined as a song adopted by a nation, expressive of its identity, heritage and achievements, and intended to inspire patriotism”.

That is what the new Parliament is all about, is it not?

**The Convener:** We take great care to consider what petitions call for, because if we asked something of the Executive, or some other body, that a petition did not ask for, we could get into dangerous waters. Certainly, I try to ensure that we stick to what petitions ask for. The petition that is before us asks for

“the Scottish Parliament to legislate for the introduction of a national anthem for Scotland.”

That means that we would have to ask the Scottish Executive whether it intends to do so. Is that what you are asking for, Mr Reid?

11:15

**George Reid:** I plead guilty: those words were sent to me to revive my original petition. I signed the petition, but perhaps I should have examined the words more carefully. I repeat that legislation is not necessarily the path that needs to be followed.

**The Convener:** To short-circuit the process, you could ask Chris Ballance, who is sitting beside you, to introduce a member’s bill. Legislation could be introduced without going to the Scottish Executive.

**George Reid:** I accept the yellow card.

**Chris Ballance:** The petition could be remitted to the Enterprise and Culture Committee, regardless of whether the opening sentence says “legislate”, “endorse” or whatever.

**The Convener:** Sorry, but the issue is not so simple because the Public Petitions Committee does not work in that way. If a petition asks for legislation, we must go to the body that comments on legislation. On receipt of a response from the Executive, we might well send the petition to the Enterprise and Culture Committee. The petition specifically asks for legislation, and it is normal for the committee to seek the Executive’s response to such requests.

**John Farquhar Munro:** I agree that, before we attempt to change existing legislation, we should ensure that the Parliament has the competence to interfere with the national anthem. The sentiments that Mr Reid has expressed are that the anthem should reflect the country, its people and its Government. The current anthem, “God Save the Queen”, has existed for generations but it is directed at one individual and does not relate to the populace at large. It may not be the most



appropriate anthem, although it has been accepted traditionally.

The songs that are used at public events nowadays change by the day. We have “Auld Lang Syne”, “Flower of Scotland”, “Scots, wha hae” and “A Man’s a Man”, which Mr Ballance has suggested. We have a plethora of suggestions and it would be difficult to come up with a solution that satisfied everybody. Somebody telephoned me a couple of weeks ago as part of a straw poll that they were carrying out on the most appropriate song for a national anthem. I suggested something biblical, such as one of our traditional psalms—perhaps psalm 100, “All people that on earth do dwell”. The man on the end of the telephone took about five minutes to answer me because he was so shocked. The issue merits serious consideration.

**The Convener:** We have never said that the petition is inadmissible. The position has been checked. The first petition on the issue, PE660, which asked for a competition, came before the committee because it was admissible. The present petition, which asks for legislation on the matter, has come before the committee because it is admissible. There is no doubt whatever that the Parliament can investigate the issue; we are trying to discuss what to do with the petition.

**Jackie Baillie:** I revert to the original suggestion—I think that it was Helen Eadie’s—that we should send the petition to the Executive. Given the points about cultural identity and assistance with marketing and tourism, let us ask the Executive whether it is minded to do something on the issue. That should be our first port of call.

**The Convener:** Are members content with that suggestion?

**Members indicated agreement.**

**The Convener:** Mr Reid, we will get back to you when the Executive replies to us.

That was our last speaker this morning. We will carry on with the other new petitions.

### **Local Government Finance Act 1992 (Council Tax Discounts) (PE784)**

**The Convener:** Petition PE784, which was lodged by Damian Pavillard, calls on the Parliament to take the necessary steps to ensure that a local authority can no longer require an individual to repay in full or in part the value of any discount received on their council tax bill when it discovers that the award was not warranted, and to ensure that those measures are effective from the date that the Local Government Finance Act 1992 and relevant statutory instruments came into force. The 1992 act sets out the rules on eligibility

to pay council tax and would need to be amended, as would related regulations, to meet the terms of PE784. The Executive’s independent review of local government finance is considering a range of issues including the possible reform of the council tax and Tommy Sheridan has recently introduced a member’s bill on the matter: the Council Tax Abolition and Service Tax Introduction (Scotland) Bill. Do members have suggestions about how to deal with PE784?

**Mike Watson:** I want to raise a general issue before we get into the meat of the petition. I am having difficulty reconciling our discussion of the petition with the recommendation under agenda item 3 that a proposed petition from Mr James Duff is inadmissible on the ground that it appears to be based on a personal dispute. I understand that argument in relation Mr Duff’s proposed petition, but, if anything, PE784 appears to be even more based on a personal dispute than Mr Duff’s proposed petition. Both also make general recommendations, but members know that the committee cannot deal with personal matters and I see no difference between PE784 and Mr Duff’s proposed petition, because both clearly arise from individual circumstances.

**The Convener:** PE784 and Mr Duff’s proposed petition arise from personal experiences but there are differences between them, which I ask the clerk to clarify.

**Jim Johnston (Clerk):** All proposals for petitions are considered on their individual merits. When a petition is proposed we consider the action that the petitioner has taken to progress the issue and whether there is a general public interest issue. Clearly, a number of petitions arise from individual cases that raise issues with which petitioners become involved. We must assess whether the aim of the petition is to rectify a specific issue or to address a general issue that the specific case uncovered in relation to legislation or guidance, for example. The petitioner who lodged PE784 raised the issue that his petition addresses with a member of the Scottish Parliament, a member of Parliament, the director of Age Concern Scotland and the Scottish Human Rights Centre. The essential difference between PE784 and Mr Duff’s proposed petition is that although the issue in PE784 arose from the petitioner’s individual case, the petitioner appears to have pursued the general issue at a number of levels. I do not know whether the committee wants to consider Mr Duff’s proposed petition now, but Mr Duff has lodged numerous petitions—around nine or 10—all of which appear to relate to the same dispute. I think that the first seven petitions that Mr Duff lodged were considered by the committee, and the committee is now being asked to consider his eighth, ninth or 10<sup>th</sup> proposal. In

our consideration, they all appear to relate to the same legal dispute.

**Mike Watson:** I should clarify that I am not suggesting that we should accept Mr Duff's proposed petition—I do not think that we should. However, I think that, on the same basis, we should not consider PE784. I am particularly concerned about the demand for backdating in the petition, which seems to be very much a personal issue.

**Jim Johnston:** The admissibility of the petition is obviously a matter for the committee. The clerks' role is to advise. PE784 is on the agenda because we advised the convener that it was admissible. You will appreciate that such matters are not an exact science.

**Mike Watson:** I appreciate that clarification and I will not pursue the matter.

**The Convener:** It is a matter of judgment, which is why I asked the clerk to clarify the situation. However, as I said, there is a specific difference between PE784 and Mr Duff's proposed petition, in that the latter is a continuation of petitions that we have already considered, whereas PE784 is a new petition that raises a general issue—that is par for the course for the petitions that we deal with.

**Mike Watson:** I accept that definition.

**Helen Eadie:** I suggest that we refer PE784 to the Local Government and Transport Committee, which is considering Tommy Sheridan's bill at stage 1, and to the independent review that ministers have set up.

**John Scott:** I intimate Alex Fergusson's apologies. The petitioner is one of his constituents and Mr Fergusson had intended to be here today to speak to PE784. However, he has had to attend a hospital appointment. Notwithstanding that, he has intimated to me that he thinks that the petition raises a general point that must be addressed. The petitioner apparently has a deeply felt sense of injustice and Mr Fergusson thinks that others may be in a similar situation, in as much as the petitioner complied with all the local authority's requirements. The petitioner objects to the fact that, having done so, he is being asked to pay retrospectively something that, hitherto, he had been told he would not be required to pay. The general point that the petition seeks to address is whether that is a reasonable thing for the local authority to request. I concur with Helen Eadie's suggestion, and we should also write to the Executive to find out its view of the issue that the petition raises.

**Mike Watson:** I am generally unhappy with the petition, partly for the reasons that I gave earlier. I am also unhappy about two particular aspects of

it. First, the petition seeks retrospective action, but my understanding is that legislation cannot be applied retrospectively. An act comes into force on a particular day and does not apply retrospectively. Therefore, we should not suggest to the Executive that it should consider that aspect of the petition.

Secondly, I understand Mr Pavillard's concern about being handed a bill for £2,000 for what seems to me to be the local authority's mistake, although I do not want to go into the individual case. However, if we follow the logic, such as there is, of Mr Pavillard's suggestion, if the council had not given Mr Pavillard a reduction in his and his wife's council tax but subsequently found that his council tax should have been reduced, Mr Pavillard would not have been entitled to a rebate of what he had paid. Is Mr Pavillard suggesting that that should be the case, on the ground of consistency? If the council should not expect him to pay because of a mistake, should he expect a refund on the same basis? If he would expect a refund in such circumstances, there is no consistency in the petition's case. However, I am primarily concerned about the backdating aspect. I do not think that we can go there. I also do not think that Mr Pavillard's argument is advanced by the fact that he seems to want the backdating aspect to be entirely one way.

**The Convener:** I do not think that there is anything in general that rules out retrospective legislation—it is a judgment call. If someone introduces new legislation and they want to make it retrospective, that is a matter for the legislation at that time. My concern about the petition is that, if we write to the Executive, we should do so for information only. A review is taking place and if any outcome of that has an impact on the petition, it will be considered as a matter of course, because it would have raised an issue that the review team had considered. Moreover, a bill is coming before the Local Government and Transport Committee that will look at council tax and related issues, so it would be good for that committee to look at the petition for information.

On that basis, it would be useful to bring the petition to the attention of the independent review of local government finance and the Local Government and Transport Committee, but I am not sure that sending it to the Executive would serve any purpose.

**John Scott:** I withdraw my suggestion that we send the petition to the Executive. I am happy for the petition to be sent for information both to the Local Government and Transport Committee as part of its stage 1 consideration of Tommy Sheridan's member's bill, and to the independent review of local government finance.

**The Convener:** Are members happy with that?

*Members indicated agreement.*

### **Council Tax Discounts (PE785)**

**The Convener:** Petition PE785, which is also from Damian Pavillard, calls on the Parliament to take the necessary steps to ensure that individuals who regard the removal of any discount received under a council tax bill to be unfair or unjustified are given the right to appeal to an independent tribunal that will have the power to consider retrospective cases.

Independent tribunals to which individuals can appeal local authority decisions on council tax bills already exist. Individuals can appeal in the first instance to the local authority concerned and thereafter to the local valuation appeal committee. In the publication "Council tax in Scotland—how to appeal" the Executive states:

"Valuation appeal committees ... are independent tribunals whose members are experienced in hearing appeals. The committee's decision is final subject to an appeal to the Court of Session on a point of law only. If a valuation appeal committee upholds your appeal in respect of the valuation list or completion notices the valuation list will be altered and your bill amended as appropriate. If your appeal in respect of action taken by the levying authority is upheld your bill will be amended as appropriate. Penalties imposed may be set aside."

Complaints about maladministration can be made to the Scottish public services ombudsman, although that does not guarantee any financial recompense. On the basis of that information, how do members wish to address the petition?

11:30

**John Scott:** It appears that PE784 and PE785 are linked and that Mr Pavillard has not appealed the decision to his local valuation appeal committee. It occurs to me that, technically, he might have run out of time to make such an appeal, but that would have been the right course for him to pursue. Notwithstanding that, it might be worth while, given the circumstances, for him to make an appeal to the valuation appeal committee to see whether it would consider addressing his problem.

**The Convener:** The petition is about the creation of a right of appeal, but that right already exists. Mr Pavillard might not have been aware of his right of appeal—perhaps we should make him aware of it.

**John Scott:** That is essentially what I am saying. I totally agree with you in that regard.

**The Convener:** Are members happy for us to write back to the petitioner and advise him of his rights?

*Members indicated agreement.*

**The Convener:** Is it agreed that we should close the petition, as there is nothing further that we can do in respect of it?

*Members indicated agreement.*

**The Convener:** We will take a five-minute break.

11:32

*Meeting suspended.*

11:39

*On resuming—*

## Current Petitions

### Detoxification Clinics (Legislation) (PE585)

**The Convener:** The first of our current petitions is PE585, which is on the siting of heroin and methadone detoxification clinics. The petition is by Alan Corbett, on behalf of the residents of Reddingmuirhead, Wallacestone and surrounding villages, and it calls for the Parliament to take the necessary steps to prevent the location of a proposed Green Door heroin and methadone clinic near local primary and secondary schools and to review and revise legislation to clarify and establish the mechanisms and powers of control that regulate the siting of such establishments.

At its meeting on 29 October 2003, the committee noted the Executive's intention to consult planning authorities and other interested parties on proposals for a minor revision of the use classes order to establish whether there were any objections to the proposals. The committee agreed to ask the Executive to provide specific details of its proposals together with an indication as to how the proposals would address the concerns raised by the petition. The Executive states in its response:

"Unfortunately, other pressing priorities mean we have not progressed on this issue as quickly as we would have liked and we have still to circulate a paper of provisional proposals to planning authorities. We are also conscious that it will be complex and difficult to assess the potential impact of any proposed changes. We are considering how best to take this forward with planning authorities and other interests."

Do members have any comments on the Executive's response?

**Helen Eadie:** Could we send an interim response to the petitioners and to the local MSP, who, if my memory serves me right, is Cathy Peattie? I think that it was she who came with the petitioners. We could agree to keep the petition open while we await more of a response from the Executive.

**The Convener:** That would be the normal course of action and, if that is your suggestion, we will note that it is what we are going to do. Are members content with that?

**Members indicated agreement.**

**Mike Watson:** I am content, but I am concerned about the delay in the Executive's response. The clerks sent a letter on 7 July and it took seven weeks to get a response. I am just a bit concerned at the speed at which things are moving. Had the

clerks been in touch with the Executive before they wrote on 7 July? I imagine that they must have written before that.

**Helen Eadie:** The petition was first considered in June 2003.

**The Convener:** Yes, there must have been an initial letter.

**Mike Watson:** I note what the Executive says but I am a bit concerned about the delay. However, rather than awaiting a response, perhaps we should ask the Executive to begin to move on the matter.

**The Convener:** I am more than happy to ask for that.

**Helen Eadie:** It will be two years in January since the petition was lodged.

**The Convener:** We will let the petitioner know that that is what we have done.

### Seagulls (Health and Safety Hazards) (PE616)

**The Convener:** The next current petition is PE616 by John Boyd on behalf of Wellpark Action Group calling for the Parliament to investigate and assess the health and safety hazards caused by seagulls in urban areas.

At its meeting on 1 October 2003, the committee noted that as an interim measure the Executive planned to issue new guidance on dealing with seagulls in urban settings while it commissioned research in an attempt to identify long-term solutions to the problem. The committee agreed to ask the Executive to keep it informed of progress and to provide a copy of the new guidance to local authorities when available.

In its response, the Executive states that it has

"awarded a research project to British Trust for Ornithology Scotland and the Centre for Conservation Science ... to examine the problems posed by urban gulls in Scotland and explore solutions that might allow the problem to be addressed."

That work is due to be completed by March next year and the Executive has confirmed that it will advise the committee once results have been considered by ministers. Do members want to comment?

**John Scott:** I am particularly concerned about the length of time that it has taken to address the issue, which David Mundell and others first raised on 25 June 2003. The Executive needs to be encouraged. It says that it will issue guidance in 2004 but will it do so before it has heard from the British Trust for Ornithology Scotland and the centre for conservation science? Will it issue the guidance before the research has been done? We

have to find out where the Executive stands; at the moment, it is not moving very quickly on the issue. Certainly, in areas such as my seaside constituency, the problem is growing.

**The Convener:** My reading of the situation is contrary to yours, John. I think that you are putting the cart before the horse. If the Executive has commissioned research, surely it has done so in order to allow officials to draft guidance.

**John Scott:** Why then does the Executive say that its research will be completed by 2004?

**Jackie Baillie:** If it is helpful, convener, my interpretation is that it would be strange for guidance to be issued before research was conducted. Before the Executive seeks clarification on the guidance, it would be helpful for everyone if it waited for the outcome of the research.

11:45

**Helen Eadie:** In one of the documents that we received when we considered PE616 in June last year, we were told that local authority directors of environmental health were holding discussions on the issue. We were also told that new guidance would be issued to the local authorities at the end of the current round of discussions. I understand what members are saying today, but expectations were raised in June last year that we would receive some interim guidance.

**The Convener:** That is helpful. As Helen Eadie has clarified, although we should have received interim guidance, it has not appeared. The Executive has decided instead to commission research before issuing guidance. Does the fact that the interim guidance never appeared change anything or shall we simply accept that it has fallen by the wayside and await the outcome of the research?

**Helen Eadie:** We should press the Executive for the interim guidance. Obviously, the issue continues to be a problem. From what I can recall of the debate and from coverage in newspaper reports, I know that the situation for some local people is terrifying. Although we realise that interim guidance might have to be reviewed following the outcome of the research, it would still be helpful for us to receive it.

**The Convener:** Perhaps we could ask the Executive to explain why it decided not to bring out the interim guidance. Are members happy with that suggestion?

**Members indicated agreement.**

**The Convener:** Obviously, we will still have to await the outcome of the research and the

publication of the formal guidance. We will write to the minister on that point.

### **Ambulatory Oxygen and Pulmonary Rehabilitation (PE648)**

**The Convener:** The next current petition, PE648, was submitted by Andrew Powrie-Smith on behalf of the British Lung Foundation Scotland. The petitioner calls on the Scottish Parliament to take the necessary steps to ensure that the national health service in Scotland provides truly portable oxygen and pulmonary rehabilitation classes throughout the country.

At its meeting on 21 January 2004, the committee considered a response from the Executive and agreed to invite the petitioner to comment on the response. We further agreed that we would write again to the Executive to establish whether the target date for making portable oxygen cylinders available had been met. In its response, the Executive confirmed that

“portable oxygen cylinders became available on GP prescription in Scotland from 1 April 2004”,

which was the target date. Despite being sent a reminder, the petitioner has not responded.

**John Scott:** I was surprised to find that Mr Powrie-Smith had not responded to our letter. At 7.30 this morning, I telephoned the number that we have for him in our papers and left a message on his answerphone. I wanted to give him one last chance to respond. He phoned me at 9.55 am, just five minutes before the meeting began, to say that he had been in hospital for six weeks over the summer as a result of a car accident. As a result, he had not received the request to comment.

Nonetheless, even at this late stage, he would like to comment if possible. Although oxygen is available on prescription, there is a question over the availability of the device by which the oxygen is administered in the way that the British Lung Foundation recommends. With the committee's indulgence, I suggest that we continue PE648 in order to seek a response from the British Lung Foundation. We also have to consider the size of the petition, which had 3,777 signatories.

**Helen Eadie:** I support the suggestion. I met Andrew Powrie-Smith last week and was sad to learn that he had been involved in such a serious accident—he still has to use a walking stick. When I saw that PE648 was included in the agenda for today's meeting, I sent him an e-mail to draw his attention to the fact that we had not received a response from him.

**The Convener:** The best thing would be to get a response from the petitioner. Are members happy with that suggested course of action?

**Members indicated agreement.**

### HMP Peterhead (PE675)

**The Convener:** Petition PE675, by Robert Moffat, calls for the Parliament to investigate alleged discrimination against convicted sex offenders held at HMP Peterhead.

At its meeting on 23 June 2004, the committee agreed to seek further details from the Scottish Prison Service on the proposals by the Prison Officers Association Scotland relating to prisoner access to night sanitation together with a timetable for a decision on the matter and a timescale for ending slopping out at HMP Peterhead. In its response the SPS states:

“The Executive Group of the SPS Board decided not to proceed with this proposal in June 2004. The main reasons for not proceeding were the safety of staff and prisoners, security issues and the failure of the proposal to achieve the objective of providing prisoners with access to the toilet on demand during the night.”

However, the SPS states:

“the Governor and the POA at Peterhead have been invited to consider other options to provide access to night sanitation and at the time of writing local negotiations are underway.”

On slopping out, it states:

“given the particular circumstances at Peterhead, no timetable can be given for the ending of slopping out at the prison.”

The committee has also received a letter from the petitioner, in which he states:

“It is one contradiction after another from the SPS in that one person says night sanitation is under consideration, whilst I have a letter from headquarters clearly stating that no in cell sanitation will be introduced at Peterhead because of the age of the prison, and no night sanitation will be introduced because of security fears, so who is to be believed.”

The petitioner does not provide a copy of the letter to which he refers. Do members have comments?

**Mike Watson:** We must ask the petitioner to provide a copy of the letter, which might give us a better idea of how we might proceed.

**The Convener:** We could then bring the issue back for further consideration. Are members happy to do that?

*Members indicated agreement.*

### Housing (Scotland) Act 2001 (PE721)

**The Convener:** Petition PE721, by Alan McLauchlan, calls for the Parliament to urge the Executive to produce authoritative guidelines in relation to provisions contained in the Housing (Scotland) Act 2001 and to ensure that those guidelines and adequate advice on the act is available to all tenants subletting, assigning or exercising the right of the other provisions of the act.

At its meeting on 12 May 2004, the committee agreed to seek the views of the Chartered Institute of Housing in Scotland, the Scottish Executive and the Scottish Federation of Housing Associations. In its response, the Executive states:

“it is ultimately for the courts to interpret where there is a dispute, not the Scottish Executive. Mr McLauchlan states that RSLs can interpret the law as they see fit. This is not the case.”

The Executive also states:

“Mr McLauchlan asks ‘that Parliament gives tenants the right to sublet with the consent of their social registered landlord which must not be withheld unreasonably, to sublet their house for how ever long they feel the need.’ Our understanding is that this is what the legislation does.”

The CIHS in its response claims that disputes could be better resolved outwith the formal court process via a housing tribunal, which would be able to seek to resolve disputes between landlord and tenant initially through mediation, but with the power to enforce a legally binding decision.

The SFHA believes:

“landlords should try to set out some guiding principles about potential reasons for refusal in their estate management or tenancy management policy, which is available to tenants.”

Do members have comments on the responses and how they take the issue forward?

**Helen Eadie:** Could we write to the Executive asking it whether it will comment on the proposals that we have heard from the CIHS on the housing tribunal and the response that we had from the SFHA on landlords setting out potential reasons for refusal to allow sublets?

**Jackie Baillie:** I have no in-principle objections to the recommendations, but I have to say that I thought that the Executive’s response was clear. I suppose that I should declare an interest as the minister who rejected housing tribunals, despite the comments from the CIHS.

**The Convener:** Defend yourself.

**Jackie Baillie:** The Executive has set out what it has done. It provides a leaflet, which Mr McLauchlan asked for, and it provides guidance. It has answered Mr McLauchlan’s points quite comprehensively. That said, I have no problems with the principle of the recommendations.

**The Convener:** We will do what has been recommended, then. Is that okay?

*Members indicated agreement.*

## Rural Schools (Proposed Closures) (PE725)

### School Closures (Revised Guidance) (PE753)

**The Convener:** We will take our next two petitions together, because they relate to the same issue. The first is PE725, on restoring the presumption against the closure of rural schools, and the other is PE753, on providing revised guidance on proposed school closures to local authorities. The committee agreed to link the petitions at its meeting on 23 June 2004 and for that reason it will be useful if we consider them together.

PE725, by Richard Lock, on behalf of Midlothian Rural Schools Action Group, calls on the Parliament to urge the Executive to restore the presumption against the closure of rural schools and to ensure that any departure from that presumption in individual cases is based on a clear and independent demonstration of the balance of educational advantage to the children of the schools affected.

PE753, by Christine Grahame MSP, calls on the Parliament to urge the Executive to reopen without delay the discussions with the Convention of Scottish Local Authorities regarding revised guidance for local authorities on proposed school closures. It also calls for the introduction of a presumption against the closure of rural schools and, pending the issuing of new guidance, for any decision to close a rural school to be called in, regardless of whether that is required under current legislation and guidance.

On 23 June, the committee agreed to seek an urgent response from the Minister for Education and Young People on the issues raised in PE753 and PE725, together with comments on Highland Council's policy and practice on the proposed closure of rural schools, and to ask whether the Executive would welcome the use of that approach in other areas of Scotland. The minister states in his response:

"I attended a meeting of the Education Committee on 26 May at which school closures was one of the items for discussion. I indicated to the Committee my intention to issue guidance on school closures to local authorities in September."

The clerk to the Education Committee has confirmed that the guidance has been issued and that the Education Committee was given sight of a draft, which it considered at its meeting on 29 September 2004. The Education Committee agreed some amendments to the guidance, which were submitted to the Scottish Executive, and it further agreed to review the implementation of the guidance in a year's time. What do members think?

**Mike Watson:** My initial question was that we need to see what the guidance says, but I notice that the minister's letter of 23 August states:

"the guidance will neither presume in favour of nor against rural school closures."

My concern is that, if the comment in Richard Lock's letter of 2 March that the presumption against closure applies in all other parts of Great Britain and Northern Ireland is true, the guidance might leave Scottish parents in a weaker position than their counterparts in other parts of the United Kingdom. I would like the minister to justify why Scotland should be treated differently in this sensitive area and to explain why he decided to take the middle road, or sit on the fence, if you prefer.

**The Convener:** Helen, do you have a comment?

**Helen Eadie:** I have nothing to add to what Mike Watson said.

**John Scott:** Mike Watson makes a valid point.

**The Convener:** Are members happy that we seek clarification?

**Members indicated agreement.**

## Egg Stamping Legislation (PE733)

**The Convener:** Petition PE733, on guidance on egg stamping legislation, is from Peter Siddons and calls on the Parliament to urge the Executive to provide guidance to egg producers in Scotland on relevant legislation relating to egg stamping and whether it is compatible with the provisions of European Union Council decision 94/371/EC.

At its meeting on 15 September 2004, the committee agreed to seek the views of the petitioner on the Scottish Executive's response. The petitioner previously suggested that the committee should receive a copy of a report by the Advisory Committee on the Microbiological Safety of Food, under the chairmanship of Professor Heather Dick from the University of Dundee. In his response, the petitioner states:

"The only way ... to resolve this matter properly is to obtain a copy of that original report by Heather Dick."

The petitioner also provides supporting evidence from UKEP Association Ltd, which states:

"I believe your argument regarding the interaction of egg stamping with egg marketing regulations has a logical and coherent basis".

He also provides evidence from a veterinary surgeon, who states:

"The cuticle of the egg is an extremely fragile but vital protection to the invasion of pathogenic organisms and as I see it 'stamping' is a potential damage and is obviously wet as applied."

I note for the record that Mr Siddons provided a message to the committee this morning, which we received.

12:00

**John Scott:** The Executive's response is less than clear. We might need to broaden the issue and invite the views of other interested bodies, such as the Scottish Egg Producer Retailers Association, the National Farmers Union of Scotland, the British Egg Industry Council and the British Free Range Egg Producers Association. We also need to hear Professor Dick's views on the petition, as well as more about the Executive's views, because its response has not shed a lot of light on the matter.

**The Convener:** Is everyone happy to await those responses?

*Members indicated agreement.*

### **Scottish Football (Management and Structure) (PE757)**

**The Convener:** Our last current petition is PE757 on Scottish football. It is from Graeme Pirie, Gavin Roach and Tormod Macleod on behalf of Fans for Football. It calls on the Parliament to urge the Executive to launch an inquiry into the management and structure of Scottish football as a matter of urgency with the aim of restoring Scotland's standing as a leading footballing nation.

At its meeting on 29 June 2004, the committee agreed to invite the views of the Executive and the Scottish Football Association and to pass a copy of the petition to the two reporters from the Enterprise and Culture Committee who are currently examining Scottish football. The Executive states in its response:

"Neither the Executive nor the Scottish Parliament have any statutory authority over how Scottish football is governed and structured."

In its response, the SFA refers the committee to its letter to the Enterprise and Culture Committee's reporters, in which it highlights the recent announcement of an action plan for the development of youth football in Scotland, through a 10-year partnership between the SFA, sportscotland and the Scottish Executive involving a total expenditure estimated at just over £31 million. Responding to the issues raised by the petition, Richard Baker MSP states in a letter to the clerk:

"Brian Adam and I will consider the issues it raises as part of our report."

Do members have comments?

**Helen Eadie:** Shall we leave it to the Enterprise and Culture Committee's reporters Richard Baker

and Brian Adam to develop the issue and allow that committee to respond directly to the petitioner so that we can close PE757?

**The Convener:** Yes. We could also comment that, although some football clubs pay £30 million for one player, we intend to resolve all the problems of Scottish football with £31 million. I will leave it at that.



## Proposed Petitions

### Legal Representation (Negligence Claims)

12:02

**The Convener:** Item 3 on our agenda is proposed petitions. We have one proposed petition to consider, which is from James Duff. He calls for the Scottish Parliament to urge the Scottish Executive

“to bring into force legislation that, would entitle the Law Society of Scotland to appoint a solicitor to aggrieved complainants having claims of negligence against their former solicitor.”

Do members have any comments on the admissibility of the proposed petition? We had a discussion about the petition earlier, when an explanation of the circumstances was given. However, if anyone needs further clarification, we will be more than happy to supply it.

**Mike Watson:** I suggest that we accept the recommendation that the petition is inadmissible.

**The Convener:** Are members happy with that?

**Members** *indicated agreement.*

## Petitions

### (Referral to Subject Committees)

12:03

**The Convener:** For our last item this morning, we need to consider a paper that has been produced and circulated by the clerks on the referral of public petitions to subject committees. The aim of the paper is to build on the ad hoc procedures that currently exist and to agree good practice that is visible to the petitioner. The paper is also intended to reinforce the transparent approach employed by the committee in deciding what action to take on public petitions. Do members have comments?

**Mike Watson:** Until I read the paper, I did not appreciate that petitions could be referred from one subject committee to another. I thought that the Public Petitions Committee was the referring body and I had not realised that other committees could bounce petitions from their court into somebody else's. I presume that we would be informed if that happened, but I ask the clerks how often we have referred a petition to a committee and then found that another committee has been asked to deal with it instead.

**Jim Johnston:** We do not have any figures for that as such. I should perhaps clarify that the matter arose during a discussion with subject committee clerks. We have suggested in the paper that subject committees should discuss the issue before petitions are referred on.

**Mike Watson:** My follow-up question refers to the second bullet point in the section entitled “Good Practice Recommendations”, which says:

“Subject committees should advise the PPC of specific procedures adopted by subject committees for the consideration of public petitions”.

That is a good idea. However, I wonder whether we should suggest that a standard procedure might be adopted to tie up with the recommendation about committees scheduling time within their work programme. It might be useful for subject committees, particularly those that the record shows we have referred more petitions to over the past five and a half years, to make a slot in their work programme for dealing with petitions. If they do not need such a slot, I am sure that they will not find it difficult to fill. Perhaps we could advise them that, instead of shoehorning an item in once their programme has been set, they should set aside a period of time or part of a meeting, given that on the basis of previous evidence a number of petitions will be submitted to them.

**Jim Johnston:** The Health Committee has agreed such a procedure and we have been advised of it. Obviously, how to deal with the matter is up to the subject committees, but we could make recommendations on that basis.

**Mike Watson:** It might be better to recommend that committees that have a lot of petitions referred to them should have a standard format, because that would allow them to have a bit more flexibility.

**The Convener:** I have repeatedly raised my concern about members suggesting that we should send a particular petition to a particular committee, because once we do so the matter is out of our control. Your proposal would at least allow us to find out what has been happening if we need to step back in again. I am more than happy for the clerks to see how that suggestion would fit into the paper and then to bring the amended paper back for the committee's consideration.

**Helen Eadie:** The suggestion is helpful. I also wonder whether some guidance on the matter could be prepared for inclusion in the current guidelines for petitioners. Members of the Public Petitions Committee regularly receive e-mails from people who apparently do not understand the process and seem to think that, because we have taken a particular action, there is an onus on us to take further action. I am thinking in particular of Mr Minogue; I do not know about other members, but he constantly sends me e-mails. That is a classic example of a case in which a petition was referred to one of the justice committees, the petitioner did not accept the outcome of the committee's deliberations and now he keeps coming back to us on the matter. We need some clarity and transparency in the process to allow petitioners to understand what goes on, which is why I especially welcome the paper. I also support Mike Watson's suggestion.

**The Convener:** The clerks have quite rightly pointed out that we need to work to certain timescales. Mike, are you happy for your suggestion to be added to the paper so that we can sign it off and get it before the Conveners Group as quickly as possible?

**Mike Watson:** Yes, certainly.

**John Scott:** The clerk has presumably discussed with the Conveners Group or other clerks their willingness to keep us informed of forward work programmes. After all, there is rather a presumption that they will be happy to do so.

**Jim Johnston:** As I indicated to Mike Watson, the paper arose out of discussions with all the subject committee clerks.

**The Convener:** Some committees do these things and some do not. Jim Johnston has

helpfully tried to get some structure into the process of considering petitions and to make it less ad hoc. As Helen Eadie pointed out, such an approach might allow petitioners to understand better what happens to a petition once it is referred to a subject committee. At that point, we lose some control over the matter because we essentially decide that a particular committee should consider it. The proposal in the paper will allow us to structure the process and enable those who come to the Public Petitions Committee to find out what sort of passage a petition should take.

**Helen Eadie:** The Health Committee receives a lot of referrals from the Public Petitions Committee and, during discussions in the past couple of weeks, it decided to take evidence in north-east Scotland on PE609, on eating disorders. I do not know how awareness is fed back to the Public Petitions Committee from a subject committee that is taking forward a piece of work. There might be scope for the committee clerks to inform the clerk of the Public Petitions Committee that an important piece of work has been taken forward. The fact that the Health Committee is proceeding with that inquiry is good news. It discussed other petitions yesterday, including petitions on autism and epilepsy, and it continues to make some progress with them. When a committee makes an achievement, it would be heartening for us and the petitioner to see a public statement to that effect.

**The Convener:** That is exactly the purpose of the paper. If a committee came back to us in that way, we could close the petition, or our dealings with it, knowing that the committee had taken action on it. It would be on the record that we had concluded the petition at that point. That is the purpose of introducing a formalised structure.

**John Scott:** It might be interesting for us to see, even in diagrammatic form, where petitions have gone. It would be useful to have a graph showing that a certain amount of petitions have gone to the Health Committee, a certain amount to the Local Government and Transport Committee and so on, if that is easy to achieve.

**The Convener:** Perhaps the Scottish Parliament information centre would have a look at that.

**Helen Eadie:** John Scott makes a serious point. The information need not be in the form of a diagram; it could be just a list of the petitions on which the Parliament has made concrete progress in the past year. Perhaps that comes out anyway in the annual report—perhaps that is the place for that information.

**Jim Johnston:** We can certainly look into that matter for you.

**The Convener:** We will not put any more pressure on. The matter will be looked into—we

will leave it at that. Are members happy with the amendment that Mike Watson suggested? We will send the redrafted paper to the Conveners Group and take the matter forward from there.

**Members** *indicated agreement.*

**The Convener:** I thank members for their attendance and participation.

*Meeting closed at 12:12.*



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