



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 7 September 2010

Session 3

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2010

Applications for reproduction should be made in writing to the Information Policy Team, Office of the Queen's Printer for Scotland, Admail ADM4058, Edinburgh, EH1 1NG, or by email to:
licensing@ogps.gov.uk.

OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by
RR Donnelley.

Tuesday 7 September 2010

CONTENTS

	Col.
NEW PETITIONS	2791
Wild Salmon and Sea Trout (Protection) (PE1336).....	2791
Tree Preservation Orders (PE1340).....	2804
Public Bodies (Accountability) (PE1337).....	2812
Scottish Public Services Ombudsman (Audit and Complaints) (PE1341)	2813
Scottish Public Services Ombudsman (Review) (PE1342, PE1343, PE1344, PE1345, PE1346, PE1347, PE1348 and PE1349).....	2813
Wallace Safe Conduct (PE1350).....	2817
CURRENT PETITIONS	2819
High-voltage Transmission Lines (Potential Health Hazards) (PE812).....	2819
War Veterans (Health Care) (PE1159).....	2820
Knife Crime (Mandatory Sentencing) (PE1171) and Knife Crime (Mandatory Custodial Sentences) (PE1313).....	2820
A92 Upgrade (PE1175)	2821
Social Rented Housing (Standards) (PE1189).....	2822
Scottish Courts (McKenzie Friends) (PE1247).....	2824
Holiday and Party Flats (Regulation) (PE1249)	2824
Medical Negligence (Pre-NHS Treatment) (PE1253).....	2825
Voluntary Sector Mental Health Services (Funding Framework) (PE1258)	2826
Trade Missions (Israel) (PE1308).....	2826
Planning Circular 3/2009 (PE1320).....	2827
Gypsy Traveller Sites (PE1321)	2830
Dance (Schools and Colleges) (PE1322).....	2831
Shia Muslims (Community Centres) (PE1323).....	2832
Thomas Muir (Statue) (PE1325).....	2832
NEW PETITIONS (NOTIFICATION)	2834

PUBLIC PETITIONS COMMITTEE

12th Meeting 2010, Session 3

CONVENER

*Rhona Brankin (Midlothian) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

Bill Butler (Glasgow Anniesland) (Lab)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Nigel Don (North East Scotland) (SNP)

*Robin Harper (Lothians) (Green)

*Anne McLaughlin (Glasgow) (SNP)

*Nanette Milne (North East Scotland) (Con)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Claire Baker (Mid Scotland and Fife) (Lab)

Jamie Hepburn (Central Scotland) (SNP)

Jamie McGrigor (Highlands and Islands) (Con)

Nicol Stephen (Aberdeen South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Iain Gray (East Lothian) (Lab)

Alex Neil (Central Scotland) (SNP)

THE FOLLOWING GAVE EVIDENCE:

Jill Butler (Woodland Trust)

Lawson Devery (Salmon and Trout Association)

George Holdsworth (Salmon and Trout Association)

Paul Knight (Salmon and Trout Association)

John Scott (Neilston and District Community Council)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 7 September 2010

[The Convener *opened the meeting at 14:04*]

New Petitions

Wild Salmon and Sea Trout (Protection) (PE1336)

The Convener (Rhona Brankin): Good afternoon, everyone, and welcome to the 12th meeting in 2010 of the Public Petitions Committee. I hope that you all had a good summer recess.

We have received no apologies; I understand that Bill Butler will come later. I ask everyone to ensure that all mobile phones and other electronic devices are switched off—I have checked mine.

Agenda item 1 is consideration of new petitions, of which we have a considerable number—13 in total—today, although eight of those relate to the same issue and will be considered together. We will take oral evidence on the first two petitions.

The first new petition is PE1336, from Lawson Devery on behalf of the Salmon and Trout Association, which calls on the Parliament to urge the Scottish Government to take immediate action to protect wild salmon and sea trout stocks from inappropriate commercial fish farm activities by taking action to ensure that all sea-based fish farms are moved away from the estuaries of major wild salmon rivers to reduce the impact of sea lice; and to ban the operation of salmon smolt farms in any wild salmon river system.

I welcome to the table Lawson Devery, Paul Knight and George Holdsworth. One of you is invited to make an opening statement of no more than three minutes, after which members will have the opportunity to ask questions. The floor is yours.

Lawson Devery (Salmon and Trout Association): I would like my chief executive to make the statement.

The Convener: That is fine.

Paul Knight (Salmon and Trout Association): The Salmon and Trout Association would like to thank the Public Petitions Committee for giving us this opportunity to provide evidence to the fish farming debate.

The fish farming industry is still largely self-regulated with regard to its impacts on wild fish, with a voluntary code of practice and area management agreements. That results, for

instance, in Norwegian companies being able to operate in Scotland under less stringent regulation than apply in their own country, especially when it comes to the siting of smolt units in freshwater lochs. Even the Aquaculture and Fisheries (Scotland) Act 2007, which was supposed to tighten up on malpractice, relies on fish farmers to report escapes and other incidents. Unsurprisingly, there has not been one prosecution since the act came into force.

Meanwhile, a recent review of the code of practice removed all reference to wild fish. Their protection appears to be no longer an issue, let alone a priority, for fish farmers. Rather, the industry purports to operate sustainably, but the fact that it fails to recognise any environmental problems is especially alarming, given its plans for future expansion.

The underlying principle of our petition is to ask the committee three specific questions. First, why does the Scottish Government allow salmon farms to operate to standards that are below those that are required to protect wild fish? Secondly, why does it allow international fish farming companies to operate under less stringent environmental constraints than apply in their home countries? Thirdly, why does it allow the siting of smolt farms in freshwater lochs with natural salmon populations?

We freely accept that salmon farming is important to Scotland, but so are wild salmon and sea trout fisheries. We want the two to co-exist, thereby maximising social and economic benefits to communities. That cannot be achieved by allowing fish farming to ignore its impacts on legitimate neighbouring businesses. The Scottish Government must face up to its international responsibilities and use its regulatory system to set environmental standards that will genuinely protect wild fish.

Relocation will be key in many areas, but that offers Government and industry positive win-win opportunities. Encouraging fish farming on the open sea in return for closing controversial inshore sites near important wild fisheries will allow the industry to expand, wild fisheries to recover and animosity to be removed, but that will require the Government to oblige the industry to think creatively rather than simply deny that there is a problem. We therefore challenge the Government to take four immediate actions: to participate in drawing up a list of sensitive wild fish catchments; to agree to the premise that no new farms be permitted on sites that are identified on that list; to encourage industry expansion into large offshore units; and to close down existing sites that are identified on the sensitive list and remove all cage units from river systems that contain wild salmon populations.

Finally, ladies and gentlemen, never forget that Scottish salmon is marketed on the back of one of Scotland's most iconic and precious natural resources: the wild salmon that flourish in Scottish lochs and rivers. Destroy the latter and the former becomes just another commodity.

The Convener: Thank you, Mr Knight.

Nanette Milne (North East Scotland) (Con): Under recent legislation, it is planned that Marine Scotland will regulate new fish farms in the areas that you talked about. Do you know when that legislation will come into force?

Paul Knight: Personally, no. We have not heard anything for sure yet. The basic problem is that, although in the 15 years for which I have been dealing with this, man and boy, we have heard a lot of talk—there is a new act, as you know—nothing concrete ever happens on the ground and we still have the impact of fish farming. We feel that it is now time for action. I reiterate that no one wants to see fish farming go away—quite the opposite. The two industries have to co-exist side by side. If they do not, the marketing of Scottish farmed fish will suffer over time. We have farmed fish, but they are destroying an iconic natural resource. When people think of Scotland, they think first of whisky and then of salmon—it is that iconic. We are saying, “Don't have one and destroy the other.”

Nanette Milne: And Norway has set the example.

Paul Knight: It has indeed.

Nanette Milne: When did it do that?

Paul Knight: Norway introduced a statutory measure at the beginning of the year to deal with the major problem of sea lice. Whereas in Norway there is a statutory limit of 0.1 lice per fish, the Scottish industry works to a voluntary limit of 0.5 lice per fish. There is a big discrepancy there. We are worried about the impact of the statutory versus the voluntary.

Nanette Milne: And the new act does not cover that.

Paul Knight: We do not believe so. Again, we have not seen chapter and verse.

Robin Harper (Lothians) (Green): I am not sure whether this counts as a declaration of interest, convener, but, as you and others know, I have been concerned about this area for the past 12 years, ever since I was elected to the Parliament. I have asked many questions on the subject and tried to find some way of getting successive Governments to make the kind of improvements that the Salmon and Trout Association is asking for. I am thoroughly biased; I

am on the petitioners' side. I thought that I ought to declare that interest.

A large proportion of the industry on the west coast is now owned by Norwegians. I assume that all the profits go to Norway. Do you see any sign of any extra investment in the west coast as a result of the Norwegian involvement in fish farming?

George Holdsworth (Salmon and Trout Association): The majority of fish farming is Norwegian owned, so most of the profits go back to Norway, as is the case with any organisation that works in a foreign land. If I am being polite, I could say that, arguably, the level of investment in the area is not as high as it could be. We feel that the Norwegians are trying to make a fast not a sustainable profit. The company makes a good profit, but the environment is damaged and the Scottish community does not get the full benefit of its natural resource. I stress again that we are not anti-fish farming. Fish farming is a positive thing to do but, as with any industry, we do not want fish farming to destroy an aspect of the environment.

The proportion of profit that is held back for the local community is not significant, whereas it is well known that all the proceeds of angling stay in the country. It is well known—VisitScotland statistics back this up—that anglers are one of the highest-spending tourist sectors in Scotland, if not the highest spending. According to published figures, angling brings more money into the Scottish economy than golf does.

14:15

Robin Harper: My second question is about smolt rearing in freshwater lochs. You will be aware that I have made a little bit of progress with the minister. I have had two meetings with Roseanna Cunningham and a committee has been set up to consider whether closed containment is the way forward for smolt rearing in Scotland, particularly because salmon are being marketed as Scottish when the smolts come from Norway, are reared somewhere in East Anglia and then brought on as salmon for a few weeks in a Scottish loch—I thought that I would slip that by people's attention. However, I have recently learned that there is only one representative of wild fish interests on the closed containment committee. Would you recommend that the Government see its way to ensuring that wild fish interests are better represented on the committee that has been set up to examine the protection of freshwater lochs by improving the way that we raise smolts, preferably by removing them from fresh water altogether?

Paul Knight: Yes. That is imperative for credibility. The foundation of what we say is that,

for the future credibility of the marketing of Scottish farmed salmon, wild fish interests must be taken into account. We really feel that the fact that the review of the code of practice has taken out all reference to wild fish is tantamount to a kick in the teeth.

We have only to consider the marketing of tuna and other species. Very few tuna that are sold in supermarkets are not labelled as coming from a sustainable resource and being caught in a sustainable manner. Salmon farming must face up to the same issues, so I would go along with what you say entirely.

In Norway, it is not permitted to farm in freshwater systems that have access to wild fish—that is just verboten. Why is it allowed in this country?

Robin Harper: I wish that I could answer that. However, I think that the answer is perfectly clear.

As to my other question, would you welcome better representation on the closed containment committee?

George Holdsworth: Very much so, yes. That is a straight answer for you.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good afternoon, gentlemen. The petition that you are presenting covers a wide range of issues that affect salmon and sea trout up and down the west coast but is basically to do with whether sea cage fish farming of salmon and the problems that it is likely to cause have brought about the decline in salmon and sea trout. I have listened to that debate for many years. We do not seem to be getting anywhere, but it is obvious that the decline in salmon and sea trout on the west coast of Scotland is a drastic situation and that something must be done to address it.

You mentioned the contrast between east and west. The rivers on the east coast of Scotland do not seem to have the same problem: they seem to have a healthy fishery, whereas those on the west coast of Scotland are almost denuded of salmon and sea trout. I know that because, in the past, I was a keen angler and I have been involved in salmon fishing, so I can see the decline from my own back door.

What is the answer? The salmon and sea trout industry and those who have an interest in salmon and sea trout have campaigned for years to get the fish farming industry to address the situation, but nothing seems to happen. The fish farming industry says that it is doing everything legally if it does it under the current legislation, but who knows what happens at sea?

I know that—this might provide some comfort—fish farming is now moving into much deeper

waters. Fish farms are coming out of the inland lochs and going out into deeper waters, where there are stronger currents that can wash away the effluent and debris that emanate from the sea cages. Why has the industry not responded to claims that people such as you have been making for 20 years or more?

George Holdsworth: The answer is that any industry—not just fish farming—will try to reduce the amount of legislation that impinges on its ability to make a profit. That is just a fact. As my colleague pointed out, the fish farming industry has had only a voluntary code, whereby people say that they will do their best to do this or that. Of course there are good fish farmers—there is no question about that—but, as in any industry, there are also some who are not good. Our belief is that the code needs to be tied in with the legislative side. For example, the reporting of sea lice numbers on smolts and fish is a statutory requirement in Norway, whereas it is voluntary in Scotland. Any voluntary code will be broken. That does not happen just in fish farming but is a fact of life. We all agree that that can happen.

We are saying not that sea lice have caused the collapse but that they are a massive contributing factor that could easily be identified. In theory, we could solve the problem very quickly. I do not suggest that we should suddenly shut down all fish farms in Scotland, but that could be done in theory. We do not want to do that. We could solve the problem by moving fish farms offshore, by changing the stocking densities and by doing many other things.

However, although the fish farming industry is partly moving offshore, much of it is still not moving offshore. My understanding is that only the increase in production—not the existing capacity—is moving offshore. In addition to the X million tonnes per year produced inshore, production will be increased offshore, especially following the collapse in Chile's Atlantic salmon fishing due to disease and so on. Obviously, fish farmers here believe that they can now increase production because they now have more of a market to sell in. We are not moving production but increasing it.

As you say, we still have the problem on the west coast that there has been a complete collapse of salmon and sea trout, with massive damage to the local tourism economy. In the Western Isles, the last-reported survey showed that only 12 per cent of all tourism spend is on angling. That figure should be higher, but it is decreasing. The reason why it is decreasing is that the number of fish is decreasing. Angling is a sustainable resource that we can use to market our own rural economy.

I hope that that answers your question.

Paul Knight: A further point is that there has been very little consumer pressure for change. Following consumer pressure over the fishing of tuna and various other species, people got Marine Stewardship Council certification. However, that sort of consumer pressure does not exist yet for salmon. We have tried to lobby and influence Parliament and the industry, but that has not worked. The petition seeks to rekindle that relationship, in the hope that the issue can be sorted out in this place. If that does not happen in the short term, I think that our lobbying must change tack and we must start talking to retailers. Every supermarket in the UK that sells farmed product says that it is farmed from responsible sources. With the best will in the world, there is not enough responsibly farmed salmon in Scotland to stock one set of supermarkets, let alone all the supermarket chains. Consumer-led pressure will always change systems, but we have not had that so far. We would prefer that to happen through this place without the need for that wider pressure.

John Farquhar Munro: We can all point a finger at the fish farming industry one way or another, but what about predation at sea, before the salmon hit the coast? There is deepwater drift netting for salmon and there is a proliferation of seals on the west coast. What is the argument against the suggestion that there is a broader issue to do with predation?

Paul Knight: Your question takes us back to what George Holdsworth said. The Salmon and Trout Association has just completed a review of 137 peer-reviewed scientific papers—members have a copy of the report. We know that aquaculture is impacting on wild fish and we can do something about that.

We have cut down fairly drastically on human predation at sea off Greenland and the Faroe Islands. The Faroe Islands no longer fish and Greenland has a subsistence tonnage of about 20 tonnes a year, which is just for internal consumption. As you said, that has had a real impact and some of the east coast rivers are doing pretty well at the moment.

However, fish farming is still having an impact and we can do something about that. We can do nothing about the gulf stream or the north Atlantic oscillation; we can do something about aquaculture and fish farming, to ensure that there is more responsible farming. Let us do something about it. That is what we are saying.

Nigel Don (North East Scotland) (SNP): My first question is perhaps technical, but it has emerged from what you said in the petition. You talked about escapees breeding with wild fish and “diluting natural gene pools”. It is obvious that escapees might dilute the gene pool, but so what? What is the issue?

George Holdsworth: We are now finding that in different rivers the wild salmon have a unique genetic imprint. Indeed, in some rivers there might be four or five different genetic strains. The main problem with the growing of smolts in fresh water is that escapees that come from Norwegian rather than west coast stock can interbreed with the wild fish, which changes the genetic make-up. All research into not just fish but all wild animals shows that, once that starts to happen, an animal’s ability to survive in the wild drops dramatically—it drops by a massive amount.

The situation is unlike that of farming, where we can bring in different genetic strains because we are dealing with domesticated animals, which we look after. Wild fish are adapted to survive in a specific river, given the river’s flow, acidity or whatever. When we start to dilute the gene pool, there can be unbelievable problems, because the fish do not spawn properly when they come back and do not survive as well as they used to. In theory, the whole system can crash.

Nigel Don: Do scientists think that the genetic make-up is part of what brings the salmon back to a particular stream?

George Holdsworth: That is absolutely correct, and it is not just about coming back to a particular stream. Through Marine Scotland, a huge amount of work is being done on the genetics of salmon. The research is moving far faster than my brain will ever go and is accelerating all the time. It is not just a question of one strain in a single river, as we used to think; research shows that, even in a quarter-mile section of a river, there might be a completely unique strain. Fish will go to that part of the river to breed with the other fish there. Once we bring in alien strains, the system can start to collapse.

Nigel Don: Thank you for clarifying that. For folk who are unfamiliar with the ways of salmon, that will have meant absolutely nothing. I do not know much about salmon, but I understood what you said.

On a different matter, I think that I understand what you are asking for, but does the Government or the Parliament have the power to do what you want? Talking is easy, but do we need statutory instruments or guidance on the matter? Do we need new primary legislation?

Paul Knight: No. You had new primary legislation, in the Aquaculture and Fisheries (Scotland) Act 2007. We think that the Government has extensive powers under the 2007 act, which it is not using. We need a statutory approach and we need the industry to come on board. The industry must be made to see that what we seek is in its best interests.

I would far rather take a partnership approach. Nobody wants to go to the marketing director of Tesco and say, "Do you realise what you are selling?" That is the last thing that we want to do. We want to see action taken by the Government with the full connivance of the industry.

As I said, we have been trying for 15 years, and it is not happening yet. That is the reason for the petition, which has been signed by 17,000 people. There is a lot of deep feeling behind it. Let us start again and see whether we can get something moving under your auspices.

14:30

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): That was a helpful question and a helpful response. You want the powers that we already have to be enforced by the appropriate agencies. That takes me on to the question that I intended to ask. In the information that was provided to support the petition, you make the point that the North Atlantic Salmon Conservation Organization has said officially that

"conflicts of interest can arise in jurisdictions where the same department is responsible for managing both aquaculture and wild salmon, **which is the case in the Scottish Government.**"

You go on to make the linked point that

"Conflicts can also arise when the same department is responsible for promotion of aquaculture and its regulation."

Which department should be responsible for your organisation and for regulation and support of your sport?

Paul Knight: I invite George Holdsworth to respond.

George Holdsworth: Why pick me? [*Laughter.*] I spend a lot of time working with Marine Scotland. Most of the time, we find it very good. The problem is that there is a conflict between aquaculture and the wild side; that is the most fundamental point. Much of the time, we get on well. It goes back to the point that Paul Knight made: if everyone would sit down, admit that there is a problem and see whether it can be sorted out, for everyone's benefit—especially the long-term, sustainable benefit of the Scottish economy—there is no reason for the current arrangement not to continue.

I have been dealing with the issue for 15 years—since I still had hair. The problem is that we have found that the fish farming industry is almost in a state of denial about certain things, so that we hit a wall. If all the industries would sit down and admit that there is common ground and all of us want the same thing, I see no reason to split up the sector at the moment—that would cause more confusion and, to be blunt, a lot more

expense to the Scottish Parliament, which we definitely do not want to do. Paul Knight is right—we can move forward if people are willing to do so. If Marine Scotland helps us to move forward to common ground, with proper, balanced representation on different committees, we can do so, possibly quite quickly in relative terms.

Cathie Craigie: In the next paragraph of the information that we have received, the Salmon and Trout Association expresses the view that

"The Scottish Government's record on regulating aquaculture means that it is falling short of its **international responsibilities and obligations**".

That is quite a serious charge. Would the obligations be fulfilled if everyone were to sit around the table and iron out their differences?

Paul Knight: No. As we have said, we have been sitting around a table and talking for at least 15 years. We have reached the stage at which we must have action. Every year I go to the NASCO meeting, which is a week out of our year in some far-flung part of the world. This year was the year of aquaculture, which is the big issue in Canada, America and Norway. As I am sure you know, Norway produces about 700,000 tonnes of salmon a year. Scotland now produces 140,000 or 150,000 tonnes, but production in Chile has collapsed. The international salmon world is saying, "Have we learned and are we learning the lessons from Chile? This could happen off Scotland—like that." However, all the Scottish industry is saying, "Great—Chile's gone. We can bring the tonnage to Scotland." That is the wrong attitude. Let us sit back and think how we can make salmon fish farming sustainable in this country alongside sustainable wild fisheries.

I do not want to digress too much, but let us take the example of the Loch Maree and Loch Ewe system. There is a big fish farm in Loch Ewe. Loch Maree used to be the finest sea trout fishery in the world. We have about 15,000 members and, if I am at a game fair, the biggest issue that members raise when they come to my stand is still, "My goodness—I wish we could still go to Loch Maree." People used to come from all over the world to fish Maree, but it is now not worth fishing. The hotel there used to employ nine boatmen; it now employs one. Yes, the fish farm employs people—that is all that we hear about in the press: that the fish farm is the big employer. However, nobody talks about the eight boatmen who lost their jobs.

We are saying that, if the fish farm operation were moved out to a safe distance, so that fishing at Loch Maree returned and the hotel could start to employ staff and boatmen as a result, that would be a fantastic benefit to the whole community. We should not pass one off against the other—let us have both operating sustainably together. That

can be done, but that involves not sitting around a table and talking about it but doing that and then going on to action, which we have not seen.

The Convener: I will slightly abuse my position as chair. I spent a good few of my years as a minister discussing the issue and was involved in putting through legislation that was seen as introducing a potentially effective system of regulation. Why is the regulatory framework not working?

Paul Knight: I think that it is just not being imposed. I have here a report from Lochaber Fisheries Trust, which has pretty much an official position—the Scottish Government gives it money to do much of its work. The trust surveyed about 90 parr on the Strontian River, of which 80 per cent were not genetically close to anything else in the Lochaber district. The trust is fairly certain that the parr come from farmed strain, but the local farm—I will not mention its name—will not give the trust samples on which to do genetic work.

Our legal adviser tells us that, under section 5 of the 2007 act, the fish farm must give up samples for any type of official monitoring. If that is not being done, why not? If I am a fish farmer who is not giving a sample, why am I not doing so? You do not need to be Sherlock Holmes to sort that out; the fish farm is worried that its fish are polluting the gene banks of local rivers and will not give up samples until it is made to do so. As I said, our legal adviser says that those powers exist under section 5 of the 2007 act. Go in there and say, “Sorry guys—you’ve got to give us those samples.” Why is that not being done? We are putting such issues on the table.

The Convener: I have just one more question. I will be quick. Some fish farms have moved to other positions and away from sea lochs that did not have much current. Has research been done on that? Has sufficient time elapsed for us to draw conclusions about the impact of such movement?

Paul Knight: We reviewed 137 papers, but very little research has been done on specific areas, purely because the fish-farming industry has not wanted to get involved in that. However, there is a lot of circumstantial evidence, much of which comes from Ireland. On a river in south-west Ireland—I am ashamed to say that I do not remember its name—a fish farm was fallowed for a year, and the sea trout run returned by 12 per cent in just one year. The reason why is that when sea trout go to sea, they do not go off to Greenland and the Faroes as salmon do—they hug the coast and so are absolute sitting targets for lice. If those lice are taken out of the system, there are immediate benefits. Rather than the fish becoming lice burdened and either dying or coming back prematurely into freshwater and

failing to breed, they can feed as nature intended and come back strongly.

As I said, the circumstantial evidence is very strong. What we do not want is to say, “Let’s have another five or 10 years getting more scientific evidence”. We believe that the evidence exists, and our review shows that there is a very strong correlation between aquaculture and impacts on wild fish. Let us do something about it, and let us do it together. With all due respect, let us not prevaricate for another five or 10 years.

Nanette Milne: I presume that economics must come into the reasoning behind fish farms not wanting to move. Do you have any idea what it would cost a fish farm to move?

Paul Knight: That is an interesting question. The fish farmers themselves want to move offshore: they have said that they want, in order to take advantage of the lack of tonnage from Chile, to move to much larger units—I believe that we are talking about 5,000 tonne units—in deeper water.

At the moment, however, they are not prepared to move and to get rid of their existing farms from inshore as well. Again, I am not a scientist and I cannot tell you the exact scientific impact of having a 6,000 tonne unit by taking away the 1,000 tonne unit and adding it to the 5,000 tonne unit. However, that is what we are saying: get rid of the controversial unit and have the farming offshore. That is the first stage.

We agree very much with Mr Harper: our long-term aim, as we have said in our report, is for all fish farming to be closed containment. At the moment, that is probably asking a bit much economically, but we believe that we should start looking at that now—I know that Mr Harper is well up on this point. Norway is beginning to do it, and even China is doing it with their trout fisheries in freshwater lakes. Let us consider that so that, in 10 to 15 years, the industry can genuinely be closed containment, which would cut out all interaction between wild and farmed fish. In the meantime, there are steps that can be taken along that way, which we have set out in our paper. That is the long-term aim, but let us have some short-term to medium-term aims as well.

The Convener: Robin Harper—briefly, please.

Robin Harper: I will be as brief as I can.

You have been advised that, legally, the fish farms should provide you with samples. A number of organisations are tasked with enforcing regulations. Is your lawyer saying that, as none of them has done anything, you will have to go to court to get those samples? Is that where we are?

Paul Knight: That would be an option, but I must reiterate that we do not want to do that. We

do not want to take the really militant options. They are there for the future, but we must be able to sort it out between wild fishing interests and the industry, with the Government taking the conciliatory role in the middle. We have the stick, in the 2007 act. We are saying let us have some more carrot. Let us encourage the industry to move in the direction that we want it to move in without our having to resort to the more militant options—although Mr Harper is right that they are there.

The Convener: Do members have thoughts about how to proceed with the petition?

Nanette Milne: As a first step, we should really get in touch with the Government on the implementation of the 2007 act—we should put pressure on it about that. That is my first suggestion.

The Convener: Absolutely. Anybody else?

Robin Harper: We need to gather a comprehensive set of opinions. Besides writing to the Government, we should write to the Association of Salmon Fishery Boards, the Association of Scottish Shellfish Growers and the Scottish Anglers National Association, to give all the associations the opportunity to respond. Marine Scotland has already been approached, and we could also write to Scottish Natural Heritage, the Scottish Salmon Producers Organisation, Shetland Aquaculture, WWF Scotland, and Friends of the Earth Scotland. They all have things that they would like to say on the issue. I think that we should invite them to respond as quickly as possible. The issues are not new, so they should be ready to respond at the drop of a hat. We should get their responses before we consider further action on the petition and whether we should point the issue to the Scottish Government or propose getting the management boards together. That is something that we have not thought of. Perhaps we should get some of them to come along and say to them, “You’ve been working together for all these years. Why have we only got this far?”

14:45

Cathie Craigie: I support Nanette Milne’s suggestion that we write to the Scottish Government to ask why it is not using its full enforcement powers. As a new member of the committee, I ask for your guidance, convener. Paul Knight gave an example in which pollution was identified in a water course, yet the authorities were not able to take samples away. Can we put that specifically to the relevant Government minister? If a problem is happening that we can resolve through questioning, that would be helpful.

Paul Knight: We will get a number of copies of the Lochaber Fisheries Trust report sent to the clerk, if you like. It contains a lot of information.

The Convener: That would be helpful. Are there any further suggestions?

John Farquhar Munro: I support the suggestion that the committee write a strongly worded letter to the Government to find out why the current legislation is not being implemented. If we get a quick response, that will move things forward.

The Convener: Yes. We have been talking about the issue for a long time. Thank you very much for your attendance at the committee, gentlemen.

Tree Preservation Orders (PE1340)

The Convener: The second new petition is PE1340, by John Scott, on behalf of Neilston and district community council. The petition calls on the Scottish Parliament to urge the Scottish Government to extend and simplify the system of tree preservation orders to give all trees protection similar to that which is enjoyed by trees in conservation areas.

I welcome John Scott from Neilston and district community council, and Jill Butler, who is conservation adviser to the Woodland Trust. One of you is invited to make an opening statement of no more than three minutes, after which members will have the opportunity to ask questions. I thank you for the additional information that has been provided to members.

John Scott (Neilston and District Community Council): Good afternoon, ladies and gentlemen. As has already been mentioned, I am here on behalf of Neilston and district community council. I thank the Public Petitions Committee for inviting us here and giving us the opportunity to discuss the petition.

We have come together as a community to improve the protection of mature and ancient trees, not only in our local area but throughout Scotland. We feel extremely strongly about the continued loss of trees from our communities, which often happens for the most trivial of reasons. Unfortunately, the problem seems to be getting worse every year. We believe that the current system and, indeed, some of the proposals that are set out in the Scottish Government’s recent consultation on TPOs do not adequately protect the important trees in our communities, so we would like to see changes to the legislation and the tree protection system in order to give all trees a similar level of protection to that which is enjoyed by trees in conservation areas.

Scotland is already at the forefront of tree conservation, with imaginative projects such as the big tree project, which is rescuing and conserving some of the world's most threatened conifers from as far away as Brazil and Chile and replanting them in the Perthshire woodlands. It is both historically and culturally important and has a potentially long-term tourist benefit.

Unfortunately, however, the majority of our own home-grown and—dare I say it?—less glamorous trees have little or no protection. I offer a brief example that I mention in the petition. Between the villages of Neilston and Uplawmoor there is a 2 mile long avenue of beech trees, which are about 150 years old. At one point on the road, they are straddled by power lines on tall pylons. I am not talking about small pylons; I am talking about your big 142,000kV pylons. Every four to five years those trees used to be trimmed back by Scottish Power for obvious health and safety reasons. One summer afternoon this year, three trees on each side of the road—a total of six mature beech trees—were cut down and put through the chipper. The answer to the question why Scottish Power did it is that rather than trim the trees every four or five years, it is cheaper just to chop them down and that is your problem solved forever.

Neilston and district community council and Uplawmoor community council approached East Renfrewshire Council and asked it to at least write to Scottish Power to ask why it cut down the trees without any consultation and whether it would consider replanting semi-mature trees in their place. The council was unwilling to do so and said that the trees had no protection and it was not really within its remit to do so. Unfortunately, after all this time we have mature trees without any protection.

There are problems with tree protection in Scotland. When the Scottish Government started to consider changes to the Planning Act 2008, the input on trees was supplied mainly by external consultants. They are good consultants who know all about planning, but they are not exactly tree experts. The people with the knowledge and experience in the field—the Woodland Trust and the ancient tree forum—lobbied hard but unsuccessfully for a change to the TPO regulations.

The local authority approach to trees also varies considerably, as was mentioned in Roger Jessop's report, which I also mentioned in the original petition. In East Renfrewshire Council we have one planning officer who deals with trees, tree protection orders and maintenance. To put that into perspective, East Renfrewshire Council covers 174km², is classed as being 85 per cent rural and has a total of 73 tree preservation orders

in place. That is one tree preservation order per 2.5km².

Although the concept of having some sort of protection order for every tree in Scotland would be an ideal, it is vital that we acknowledge and identify our trees of greatest value and make sure that they are adequately safeguarded. We need a system that identifies such trees and their value to our communities at both local and national levels, and which ensures that owners are aware of trees' significance.

At present, conservation areas are determined by the architecture or historical value of the buildings within a village, town or settlement. The protection of trees in conservation areas has been included almost as an accidental by-product of the legislation. As a practical approach, we could develop one of the concepts in our petition, which calls for the extension to

"all trees a protection similar to that enjoyed by trees in conservation areas"

to at least have areas or groups of trees in Scotland designated as tree conservation areas. For example, those might be avenues of trees leading into a village or within a village, groups of trees in the countryside, groups of important trees in a garden or designed landscape in the Scottish inventory, even within a town. The trees within such designated tree conservation areas would enjoy the same protection as trees within the present conservation areas—that is, any proposed tree works would have to be notified to the local authority before any work was carried out. The identification of such proposed tree conservation areas could be led by community groups submitting their proposals to the local authorities.

We earnestly ask the Scottish Parliament as a matter of urgency to examine and enhance the legislation to protect and ensure the conservation of trees in Scotland. As I mentioned, I have with me Jill Butler from the Woodland Trust Scotland and the ancient tree forum to help to answer any questions. Jill Butler has many years' experience of tree conservation both with the Woodland Trust and the ancient tree forum and has a long-standing interest in the protection of trees and woodland in Scotland and throughout the UK.

Robin Harper: Again, I refer people to the register of interests and my membership of several woodland trusts including Carrifran wildwood and the Woodland Trust Scotland.

I was involved in trying to get some improvements to the legislation back in 2007, but was sadly ineffective. Would it be even a start to have a presumption against the cutting down of mature trees and an injunction that notification of intention with several months' notice should always be given before such a tree be attacked?

My second question is tangential to the petition as it stands, and is about the extra recognition that you and I feel should be given to trees that could be identified as being of great historic and cultural significance. There are not so many of them, but there is no special recognition of their value or special protection for them under the legislation as it stands. Do you want to make any observations on that?

John Scott: The answer to your first question is emphatically, "Yes." We would like there to be a presumption against felling. Your second question about ancient trees and so on falls more within Jill's territory. They would require special protection in addition to conservation.

Jill Butler (Woodland Trust): Conservation is the mechanism, but at the moment the historic and architectural interests of conservation areas drive the system and it sweeps up trees as part of that. We are asking only for a very modest step to be taken to broaden that concept for designation of conservation areas to include trees. We believe that the system that we propose would be effective because all that would be required is a notification system for the owner of the trees. It is relatively straightforward for the local authority to manage notifications in such a way as to give permission for works to go ahead in the majority of cases, if it is happy with that. The system that we would prefer is therefore very simple.

Scotland has an international heritage of important trees and our current system means that many of our most important trees have no protection whatever, so someone could cut them down without doing anything legally wrong—we are not accusing people of that—whereas many other trees, particularly those in conservation areas, are extremely modest, if not relatively unimportant, but are protected. That is an anomaly and we are not balancing the situation very well.

It is also unfair for tree owners. On the one hand, a tree owner with an important tree has no need to notify anyone or to pay any money to manage that tree, while on the other hand someone who lives in a conservation area or who has a tree protection order, which usually means that the tree is important, faces a big burden. The system that we have at the moment is very unfair.

We would like communities to be involved in identifying areas of rich and important trees. The concept behind conservation areas is that communities get involved in the process of identifying those areas: we have, through our ancient tree hunt project, demonstrated during the past four years that communities are interested in that process.

I can give you any number of examples. For example, in south-west Scotland, Cally Palace

park, which is on the register of landscape gardens and historic parks, and Cardoness Castle, which is not, have superb trees, but neither of them will have protection for those trees. We are looking for a mechanism to introduce conservation areas for such incredibly rich collections of trees. Generally speaking, we are talking about areas that have many highly important trees with many ownerships. The conservation area approach is very cost-effective in such circumstances.

15:00

John Scott: I will add one thing from my experience. At the moment, a developer who wants to build houses in an area where there are mature trees must submit to the council their plans for which trees they would leave and which they would remove. That is all agreed with the council and, if there are trees to be retained, the council will apply the legislation. I do not know the exact British standard, but the trees have to be fenced off and protected and no damage must be done to them in the course of the development. However, as happened where I stay, once the houses pass into private ownership, that protection lapses and some owners chop the trees down because they do not like their gutters getting full of leaves or having leaves in their driveways. Believe it or not, that has happened. We are protected from the developers but not from householders. There is something wrong with that.

Jill Butler: We know from arboricultural contractors and surveyors who are involved in such developments that, in certain cases, before they are invited in to do their presentations before a project goes to planning application, the developer cuts down the trees because they know that they are important and do not want them in the way, which would jeopardise their planning application. We have the evidence that that is happening.

Nanette Milne: You took the words out of my mouth. I was going to cite an instance from when I was a council member of beautiful trees being felled just ahead of a planning application's being submitted. It was very frustrating even though the trees were obviously not protected.

I have a lot of sympathy with what you propose. However, given that councils are under significant pressure and that there might be only one tree expert in a large council area, would it place an even greater burden on councils? Having heard you, I am not sure that that would necessarily be the case. Would it increase or, perhaps, decrease the load on them?

Jill Butler: It would, if it were introduced, be one tool in the package of tools that the local authority would have. Authorities would be able to choose

the right tools for the right circumstances. There would still be a notification process, but we would bring many trees into that process under the same auspices and it would be simpler.

If the community encouraged the owners of 75 per cent of the trees to realise that they were living in an important tree area, it would probably work to ensure that the trees were looked after and the notifications would just be a question of ticking a box. We want to move to proactive engagement with the community to ensure that it values what it lives in.

I do not underestimate how valuable such areas are. Recent research says that avenues such as the one that John Scott mentioned reduce speed and save lives. There are all sorts of benefits. We know about climate benefits. Mature trees are more important for those, as well as being important for health benefits and the value of properties.

We need to shift into a much more explanatory role. If we introduce a conservation area approach, it will be more possible for communities that have been designated as important to draw down money from sources other than the local authority to help them to manage the trees in highly effective ways such as tree trails, awareness raising, events and publicity.

Nanette Milne: I envisaged that the notification would go to the council, which would be obliged to verify it. Would it have to go and check every tree in an area that was notified? However, if communities were to be much more proactive, I can see where you are coming from.

Jill Butler: The notification process applies even to small trees. Mechanisms could be introduced through regulation, including raising the threshold for the size of tree that requires notification. It is important that the measures should be uniform across Scotland. We are concerned about that aspect of the latest TPO consultation. We do not want differences between one local authority and another. That would give the lawyers a licence to play off one authority against another in the courts; an owner in one local authority area could come under one set of rules and an owner in another authority under a different set of rules. That would be an onerous system that would be not only unfair but hugely confusing and difficult to manage. Indeed, over time, it would become an enormous burden. We are very concerned about the proposed changes to the model order. We are looking for improvements to TPOs and conservation areas so that the tools work as effectively as possible for tree protection. At the moment, trees are falling through the net. That is a serious situation.

John Wilson (Central Scotland) (SNP): A number of years ago, I had experience of a local authority taking responsibility for topping an avenue of lime trees. I mention this in respect of the conflict that arises when local authority officers give their authority the go-ahead to top trees that have a TPO. The example also raises the issue of the application of TPOs by local authorities. You talked of a six-week notification period for consultation and raised the issue of local authorities interpreting the regulations differently. The community council has raised the question of conflict between a local authority and a local community. I referred to an authority removing an avenue of trees. An authority can get into conflict with a community because the community wants a preservation order placed on a tree or trees and the authority disagrees with the need for a TPO. Is the six-week notification period sufficient time in which to allow a community to be engaged in the consultation process? How can we ensure that authorities get the right solution to the issues that have been raised?

Jill Butler: You are saying that if there was a conservation area for trees, would the six-week period be sufficient for consultation to take place?

John Wilson: My concern is consultation with communities. If we are talking about communities being engaged in the process, surely they need to be consulted. At the moment, if a developer or someone else wants to remove trees, they need only consult the local authority. I understand that there is no onus on the authority to consult the local community.

Jill Butler: In conservation areas, which are mainly for buildings, the strong guidance is that authorities should set up community involvement in area management plans. We are very supportive of longer-term management plans that set out what is expected in the community. Such plans would operate over five years and not require a lot of detail. We agree that the same standards that apply to a private owner should apply to local authorities in managing their own trees. We are not certain that that is happening as effectively as possible at the moment.

We need a mechanism by which to determine the value of trees. Obviously, local authority resources have to go to the most important trees. We need a national register, beneath which would be a register of regional value trees and one for local value trees. Such a mechanism would enable resources to go to the most important trees as a priority. People will know which trees in their community are the most important, and when resources are tight they will ensure that resources go in that direction. We need such a system, not one that results in notifications for very small trees where the impact of losing them would be small.

Resources must not be taken away from the more important trees.

We feel that there is an opportunity for more reallocation of resources, but we need to have a tree conservation area tool in the toolbox so that when local authorities consider whether they have the right tree in the right place and do tree and forest strategies as part of the trees and woodlands strategy approach, they can follow that up by giving wonderful areas of trees conservation area-type designations.

John Scott: I would like to add to that. At the moment, there is a statutory obligation to consult community councils if any development work is to be done, regardless of whether it involves trees being felled. In addition, if someone wants to do any tree work in a conservation area, whether it is trimming or whatever, they have to fill in a form and state in their application the extent of the work and the reason for it. I think that having to put in such applications helps to focus people's minds. For example, someone who wanted to chop down a tree simply because it was making a mess of their driveway would realise, "Oh no. Maybe that is not an acceptable reason for removing a tree." Apart from anything else, having to sit down and put in writing why they want to carry out tree works raises people's general awareness and appreciation of trees in the environment.

The Convener: Thanks very much. Do members have suggestions about where we should go with the petition?

Nanette Milne: Again, we need to get in touch with the Government and ask what its views are on what the petitioners propose. Some valid points have been made, which potentially offer a good way forward on the preservation of the country's important trees.

The Convener: Absolutely. Anyone else?

Robin Harper: It might be useful to write to a selection of local authorities and—given that what is proposed has workload implications—the National Association of Tree Officers and the Royal Town Planning Institute, as well as the Forestry Commission and the Woodland Trust. We should ask them to address the issues that have been raised about TPOs and the idea of having a presumption against the felling of trees. That would be a simple way forward.

The Convener: Okay.

John Wilson: I suggest that we also write to the RSPB and the Scottish Wildlife Trust because, as a member of both organisations, I know that they own extensive areas of land. In the past, the RSPB has been involved in clearing land of particular types of trees, so it would be useful to get its view on the proposals in the petition.

The Convener: Yes. Thanks for that.

Robin Harper: It has occurred to me that two other organisations—Historic Scotland and the National Trust for Scotland—might have some useful observations to make. I should add that I am a member of both those organisations.

The Convener: I thank the witnesses very much for their evidence.

Public Bodies (Accountability) (PE1337)

15:15

The Convener: PE1337, by James Campbell, calls on the Scottish Parliament to urge the Scottish Government to demonstrate how public bodies and their employees who enter into contractual agreements with third parties, particularly small and medium-sized enterprises, honour their obligations and fulfil the requirements of those contracts.

Do members have any suggestions on how the committee should deal with the petition? I should point out that Alex Johnstone MSP has tabled an e-mail in which he makes some specific points on the petition.

Nanette Milne: We should take the petition forward, if we can. I had some involvement with Mr Campbell a few years back, and Alex Johnstone took over the case on my behalf. The issue has caused a great deal of grief in Mr Campbell's life. As Alex Johnstone said in his letter, there have perhaps been issues to do with Mr Campbell placing trust in individuals who were not worthy.

We need to write to the Government, Scottish Enterprise and Highlands and Islands Enterprise, in particular to find out about the small firms merit award for research and technology—SMART—scheme, which was behind much of the issue. The Government was responsible for administering the scheme until October last year, when SE and HIE took over.

I would also like to know whether action can be taken if it is proved that a public body has not acted responsibly—in the contractual sense. What is the understanding in Government in relation to how public bodies carry out contractual matters, to ensure that bodies fulfil their role correctly? We cannot deal with a specific case, but there are a number of general issues that affect Scotland and which we should explore with the Government.

The Convener: Okay. If there are no further comments from members, do we agree to continue our consideration of the petition and seek further information from the relevant parts of the Scottish Government, Scottish Enterprise and HIE?

Members indicated agreement.

Scottish Public Services Ombudsman (Audit and Complaints) (PE1341)

The Convener: PE1341, which was brought by Dr R A Rahman, calls on the Scottish Parliament to conduct an annual audit of the public expenditure on the Scottish Public Services Ombudsman and establish public complaints channels to examine the public dissatisfaction at the SPSO in managing complaints raised by members of the public. Do members have suggestions on how the committee should deal with the petition?

Cathie Craigie: We should proceed as is suggested in our paper.

The Convener: It is suggested that we contact the SPSO to find out what steps have been taken in relation to expenditure. It is suggested that we also contact the Scottish Parliamentary Corporate Body, the Scottish Government and the Auditor General for Scotland. Is that agreed?

John Wilson: I am not sure whether other members have had the same experience as I have had with the petitioner. I want to put on the record that I have received a number of e-mails from the individual about complaints that he has made against various public bodies and organisations. The petitioner has certainly communicated with me, if not with other members, on the issues.

We should at least give the SPSO and the SPCB an opportunity to respond, so that we can find out what is happening and whether we can address the issues. Given the e-mail correspondence, it is clear that the petitioner conducts himself and his campaign against a particular body quite tenaciously. I wanted to make the committee aware of that.

The Convener: Thank you.

Scottish Public Services Ombudsman (Review) (PE1342, PE1343, PE1344, PE1345, PE1346, PE1347, PE1348 and PE1349)

The Convener: We will now consider eight petitions together, which all relate to the review of the Scottish Public Services Ombudsman and contain identical wording and information. PE1342 was brought by Phyllis and Robert French, PE1343 by Sandra Smith, PE1344 by Phillip Hawthorne, PE1345 by James Smith, PE1346 by William Whiteside, PE1347 by Christina Cumming, PE1348 by Mr and Mrs Corbett, and PE1349 by Iris Innes.

The petitions call on the Scottish Parliament to urge the Scottish Government to commission an independent review of the SPSO to make it more accountable for its performance, including the

extent to which its investigations are fair and robust, and to widen its remit, so that it can enforce recommendations that it makes following investigations of the actions of public bodies. Alex Neil MSP is with us this afternoon and would like to speak to the petitions.

Alex Neil (Central Scotland) (SNP): Thank you, convener. A substantial number of other people could probably have submitted similar petitions. There is a letter of support for the petitions from Murdo Fraser MSP, which is based on his experience with constituents. I know that Michael Matheson MSP is also supportive. I have spoken informally to others who hold the same view.

In some cases, the ombudsman has found in favour of the petitioners. The petitions are not sour grapes—they reflect a more fundamental concern about the performance and powers of the ombudsman's office. I will give one or two examples of how lacking in robustness investigations have been. Unfortunately, they are not isolated examples.

It took three and half years for one petitioner's case to be resolved. Even at the end of that period, the final report was so full of factual inaccuracies that, in her view, it was not worth the paper it was written on. In another case, which was a planning matter, the ombudsman refused to investigate the matter because "it is not the job of a local government planning official to check that the papers going to the planning committee are accurate". That is a farcical statement by any standard.

When another serious case involving a health matter was investigated with one health board, a number of recommendations were made to prevent the same thing happening again. However, a year later, in the same ward of the same hospital in the same health board area, exactly the same thing happened. The ombudsman's recommendations were not implemented and nothing was done about the lack of implementation, in spite of the fact that that was brought to the ombudsman's attention.

I could go on all day with examples that show that, in my view and in the view of other MSPs and the petitioners, the ombudsman's office too often fails in its duty and fails to perform adequately. Given that the Parliament spends just under £3.5 million a year to fund the ombudsman's office, we need a far better return on our money, especially in these days of constraint. To quote one of the petitioners, it is not worth a farthing in terms of the quality of service that petitioners have received.

To be fair to the ombudsman, its powers are more limited here than is the case in other countries. That applies both to the circumstances

in which it can investigate complaints—which are confined to administrative errors and failure to deliver a service, and do not include injustices that public bodies are alleged to have inflicted on people, as is the case in many other countries—and to the power to implement its recommendations, which is limited. However, the ombudsman is not using effectively the powers that it has. The other big issue is that the ombudsman cannot investigate an incident that did not happen in the previous 12 months, even if the incident happened only 15 or 18 months ago and there was a good reason why it did not come to the ombudsman earlier.

We must bear in mind the fact that the ombudsman is the last resort for people. Most people do not have the money to take public bodies to court, especially if the public body concerned threatens to charge to them its legal expenses, as well as their own, if they lose. People of modest income really rely on the ombudsman to sort out problems that arise. To be frank, the ombudsman is not performing to anything like the required standard. The petitioners, Murdo Fraser, Michael Matheson, other MSPs, many other people who have used the ombudsman and I are strongly of the view that it is time to have a fairly fundamental look at the ombudsman's performance and powers, with a view to getting far greater return on the £3.5 million of taxpayers' money that it uses up every year.

The Convener: Do members have any questions or any suggestions on how we should take the petition forward?

John Wilson: Mr Neil is right about the situation with the Scottish Public Services Ombudsman. In the Local Government and Communities Committee, we received a report from the ombudsman. When the issue of the ombudsman's powers came up during that exchange, the ombudsman made it clear that a situation had arisen in which he would have liked to have named a particular local authority—he did not say which—but the powers to enforce his recommendations were lacking. When the Scottish Public Services Ombudsman was established, the Parliament or Government did not put in place the powers to ensure that the ombudsman's recommendations were acted on.

Mr Neil is right that people genuinely think that the ombudsman can resolve their issues and get answers, if not solutions, to the problems that they have encountered in dealing with public bodies, but they find that, even when the ombudsman's recommendations are quite strong, the recommendations do not need to be implemented. Public bodies can note the recommendations without implementing them in full. Given that issue

with the ombudsman's powers, I welcome today's debate as allowing us to take that issue forward to ensure that people can get some satisfaction from public bodies that are supposed to represent and protect them by taking decisive action against public bodies or individuals.

I support the idea that we should approach not just the Scottish Public Services Ombudsman but the Scottish Parliamentary Corporate Body and the Scottish Government to ask whether there has been any review of the SPSO's remit and powers to ensure that its recommendations are implemented. As Mr Neil and the petitioners have identified, that process might need to look at whether the ombudsman is fulfilling its remit and whether it is delivering what the people of Scotland expect.

Anne McLaughlin (Glasgow) (SNP): The petitioners have done a great public service in lodging the petitions. The Scottish Public Services Ombudsman should be a people's champion. Someone who came to my office told me that they would go to "The Judge" column in the *Sunday Mail* before they would go back to the ombudsman. It would be in everyone's interest, including that of the ombudsman's office, to review the work and remit of the ombudsman so that we can give people confidence in what the ombudsman does.

Perhaps the most interesting suggestion is about enforcement. In the Public Audit Committee, of which I am a member, we often talk about how our committee and the Auditor General can make recommendations but that does not mean that they will be enforced. Indeed, a petition from Govanhill Housing Association that we will reconsider later today is about whether the housing legislation that has been strengthened will be enforced. When people go through what they go through to get to that final stage of getting satisfaction from the ombudsman's judgment, only for that then not to be enforced, how does that make them feel? How does that give people confidence in the service?

As Alex Neil said, times are tight financially. Given that we spend more than £3 million on the Scottish Public Services Ombudsman every year, we need to ensure that every single penny of that money is working for the people of Scotland.

I support the proposal that we write to the various bodies that have been mentioned. In writing to the ombudsman, we should ask whether it would welcome the ability to enforce its recommendations and find out its thoughts about what the petitioners are calling for.

The Convener: Do members have other points? The petitions will be continued. The

Scottish Government and the Scottish Parliamentary Corporate Body—

15:30

Nigel Don: Forgive me, convener—I thought that another member was lined up to speak. I am a bit slow. Can I take us back a few decades? When ombudsmen—a Scandinavian import—were first mentioned, the idea was that an ombudsman would have no powers other than investigative powers. An ombudsman would not provide a court of appeal, but he would have a status in his society whereby he was not ignored and—incidentally—he would not make the daft comments that Mr Neil described.

The original idea was that the ombudsman would investigate something and, if he pointed out malpractice, people would say, “Yeah—sorry. Got it wrong. Let’s put it right.” At the end of that, enforcement powers would not be needed. If we ask for enforcement powers, we must recognise—if my memory is right—that we will change the nature of the beast. That worries me, because it will mean in effect building another layer of a kind of court of appeal. In any legal or semi-legal system, we should try to avoid that, because it just means that the persistent litigant has somewhere else to go and that it all gets lost in the churn. I am concerned that we should not lose sight of the concept and try to turn it into something else.

It is clear that there is much dissatisfaction with what has gone on—we are all aware of that. Something needs to change, but I am not sure whether that necessarily applies to the enforcement powers. Perhaps the width of the investigative powers or simply the way in which the job is done by people—although I do not want to be personal—needs to change.

The Convener: Committee members might hold a range of views, but the committee seems to agree that we should continue the petitions and seek further information that will allow the petitions to be brought back for discussion.

Alex Neil: Thank you, convener and members.

Wallace Safe Conduct (PE1350)

The Convener: The last new petition today is PE1350, by Nick Brand, who calls on the Scottish Parliament to urge the Scottish Government to make a formal loan request to the National Archives at Kew to return the Wallace safe conduct to Scotland under a permanent loan agreement. Do members have suggestions on how the committee should deal with the petition?

Anne McLaughlin: Fiona Hyslop set up a committee of experts to consider whether the document is authentic, because some think that it

is not. I think that that committee is due to report in October. I suggest that we suspend consideration of the petition until the committee says whether it believes that the letter is authentic.

The Convener: Do we agree to suspend the petition until we have the report from the committee that has been established?

Members *indicated agreement.*

Current Petitions

High-voltage Transmission Lines (Potential Health Hazards) (PE812)

15:33

The Convener: We have 16 current petitions to consider. The first is PE812 by Caroline Paterson on behalf of Stirling Before Pylons, which calls on the Scottish Parliament to urge the Scottish Executive to acknowledge the potential health hazards that are associated with long-term exposure to electromagnetic fields from high-voltage transmission lines, and urgently to introduce effective planning regulations to protect public health. Do members have suggestions on how the committee should deal with the petition?

John Farquhar Munro: I think that we should close the petition.

The Convener: Do other members have suggestions?

Nigel Don: I am not entirely convinced about that suggestion. We have been round the houses on the petition, but work is still going on with Scottish Power, which is producing mitigation proposals.

I am struggling to reacquaint myself with the paperwork, but my recollection from reading it yesterday is that there is something else that Scottish Power still has to do. We owe it to the petitioners to see that before we close the petition, to be honest. I am not sure to what extent we can influence it, but we would be letting the petitioners down to come this far and then to close it ahead of the proposals' being made public.

The Convener: That is the mitigation scheme, on which work is being done.

The suggestion is that we continue with the petition until we get further information about mitigation.

John Wilson: Nigel Don is right. Given that the petition is about the pylons and we do not yet have Scottish Power's proposals for the mitigation scheme, we owe it to the petitioners to keep the petition open until the proposals are before us. The petitioners may have other issues on any scheme that Scottish Power proposes and questions could be raised if proper mitigation is not in place.

The Convener: Is that agreed?

Members *indicated agreement.*

The Convener: The petition will be continued.

War Veterans (Health Care) (PE1159)

The Convener: The next petition is PE1159, by Mrs S Kozak, calling on the Scottish Parliament to urge the Scottish Government to provide NHS Scotland and other relevant organisations and individuals—including veterans of the Gulf war of 1991—with all necessary information and facilities in order that veterans who were exposed to nerve agents and their preventive medications be assessed, advised and treated appropriately and fatalities be prevented. I seek members' views on how to deal with the petition.

Robin Harper: It looks as if work is being done on the matter. It would be wise to continue the petition until we are updated on further progress.

The Convener: Absolutely. Is it agreed that we continue with the petition while we get updates on what has been happening?

Members *indicated agreement.*

Knife Crime (Mandatory Sentencing) (PE1171) and Knife Crime (Mandatory Custodial Sentences) (PE1313)

The Convener: The next two petitions are considered together, as they both relate to knife crime. The first is PE1171 by John C Muir, which calls on the Scottish Parliament to urge the Scottish Government to introduce mandatory sentencing for persons found carrying knives or other dangerous weapons in public, except where there are exceptional circumstances that relate to the carrying of a knife or other sharp implement.

The second is PE1313 by Kelly McGee, which calls on the Scottish Parliament to urge the Scottish Government to introduce mandatory minimum custodial sentencing for those who are caught carrying knives or other dangerous weapons in public, except where there are exceptional circumstances that relate to the carrying of a knife or other similar sharp implement.

Do members have any suggestions on how the committee should deal with those two petitions?

Robin Harper: The committee did everything it could on those and other petitions on the same subject, including a full-scale public debate in the chamber. The matter has been considered by the Justice Committee and the whole Parliament but, unfortunately for the petitioners, the Justice Committee and the Parliament did not support what they called for. This committee can take their concerns to no further court of appeal, so I am afraid that we have no option other than to close the petitions.

Nigel Don: I concur. It is clear that we can go no further. The matter has been the subject of

legislation very recently. However, I record my appreciation for John Muir's campaign. He made a strong case, with which not everybody agreed—I was one of them. Let us not rehearse the arguments, although he has done our democratic process a huge service. His tenacity is exemplary and he has generated an extremely good public debate. I am grateful for the opportunity to put that on the record.

Cathie Craigie: I, too, pay tribute to John Muir and Kelly McGee for their campaigns, which they are conducting in what must be very difficult situations. I would never want to find myself in such a situation but, unfortunately, people across the country still find themselves in Mr Muir's and Kelly's situation almost every week. We live in a democracy, but I find it unfortunate that, in this case, the democratically elected Parliament did not, by majority, listen to the wise views and recommendations that were brought forward by both those campaigns.

The Convener: Thank you very much. I add my support to the points that have been made. I pay tribute to the work that both John Muir and Kelly McGee have done in the tragic circumstances of the deaths of family members Damien Muir and Paul McGee.

I propose that the committee write to inform them of the decision to close the petitions and to give the specific reasons for closing it—clearly, it has been considered in the Parliament—but really to thank them for the considerable work that they have done and to say that they will continue to have the support of the committee in their future work on this very important issue. Is that agreed?

Members *indicated agreement.*

A92 Upgrade (PE1175)

The Convener: The next petition is PE1175, by Dr Robert Grant, calling on the Scottish Parliament to urge the Scottish Government to immediately improve and upgrade the A92 trunk road, in particular between Prestonhall roundabout and Balfarg junction, in order to reduce the number of hazards and accidents and to bring about improved benefits to the local and wider economies. I seek members' views on how to proceed with the petition.

Nanette Milne: As the final report on the junction is due to be finalised in the autumn—the date is unspecified at the moment—we should keep the petition open and consider the matter again once the report is available.

The Convener: Is that agreed?

Members *indicated agreement.*

Social Rented Housing (Standards) (PE1189)

The Convener: PE1189 is by Anne Lear, on behalf of Govanhill Housing Association. It calls on the Scottish Parliament to urge the Scottish Government to conduct an inquiry into the responsibilities of private landlords, the levels of social housing below tolerable standard, the impact that "slum" living conditions have on the health and wellbeing of residents and the wider community, and whether such conditions should merit housing renewal area status and additional Scottish Government funding. I seek members' views on how to deal with the petition.

Anne McLaughlin: I suggest that we keep the petition open. I have read carefully what Govanhill Housing Association and Govanhill Law Centre had to say and they acknowledge the additional support that the Scottish Government has given to the Govanhill area. The problems in Govanhill are not unique, but it seems to have a unique concentration of so many different problems. Their fear seems to be that if we close the petition then the additional spending will not have the desired effect. I know that it is not necessarily the job of the Public Petitions Committee to monitor those matters, but because of the concentration of problems in the area and because of the work that we have done with the organisations, I would like to go along with their suggestion that we keep the petition open and monitor the effectiveness of the additional money that has been given, and of the strengthened legislation. I said that one of their concerns is that the legislation exists but is not being enforced. It is being strengthened: will it now be enforced?

The housing association and the law centre have raised a number of other issues. I could go over them, but I do not think that that is necessary. They have had some success in what they hope to achieve, but they fear that the money will not be used properly and that it will not have the effect that they want it to have. I would like the committee to keep the petition open, and then to come back to it and see what has happened. I do not know what the suggestion was as to when we do that, but we should keep the petition open for the moment to see how the additional money and the changes to the legislation affect the concentration of problems in the area.

15:45

Cathie Craigie: I support Anne McLaughlin's view that we should keep the petition open. Govanhill Housing Association raises an important point. My particular interest is the responsibilities of private landlords—or, rather, some private landlords' lack of responsibility. As Anne has pointed out, there is already legislation to assist

local authorities in dealing with private landlords. I am aware that the minister has proposed to strengthen that legislation, but while the people of Govanhill and, indeed, Cumbernauld and Kilsyth wait for the proposed legislation to make its way through Parliament and be enacted, they still have to live with the problems.

We need to find out why local authorities are not implementing and enforcing their current powers: perhaps the Government can provide information not only on the local authorities that are using them, but on those that are not and why they are not. The law is working in some areas but not in others. It could take a year or 18 months for new housing legislation to be enacted; indeed, even after that happens, we could still be two or three years away from the provisions' being in force. I suggest that we use the legislation that is already on the books, just as we suggested in respect of the earlier petition on wild salmon that the current salmon and aquaculture legislation be used.

John Wilson: As the response from Govanhill Housing Association suggests, we should congratulate the Minister for Housing and Communities on the actions that he has taken. However, we should also ask what the Government is doing with the proposed private housing bill and how it feels that legislation will impact on the private rented sector, particularly with regard to the Govanhill situation.

As Cathie Craigie quite rightly points out, though, the issue affects not only Govanhill, so we must ensure that the legislation applies throughout Scotland and that private landlords are aware of their roles and responsibilities in that respect. I suggest, therefore, that we keep the petition open. Moreover, given that the petition was submitted some time ago and in view of the minister's commitments with regard to Glasgow City Council, we should write to that council to ask about the work that it is carrying out with Govanhill Housing Association and others to try to eradicate or resolve some of the current issues.

When Anne McLaughlin, the previous convener and I visited Govanhill, we saw the situation at first hand; indeed, a family member lives in the area, so I have personal experience of what is going on and know full well some of the problems that exist. The sooner we eradicate them not only for the people of Govanhill but for any community in Scotland that finds itself in a similar situation—although I have to say that I am not aware of too many similar situations—the better. We must endeavour to do everything that we can for people who have to live in these conditions, no matter whether that means strengthening the current legislation or introducing new legislation that can allow decisive action to be taken to eradicate rogue landlords and—just to throw in a final point

that I have raised before—letting agents. The current legislation does not cover letting agents and we must ensure that any legislation that comes forward encompasses everyone involved in private housing provision. As I said, we should continue the petition.

The Convener: The local member, Frank McAveety, had hoped to be here this afternoon, but he has not been able to attend. He has certainly intimated to me that he is very keen for the committee to continue with the petition. Are we agreed?

Members indicated agreement.

Scottish Courts (McKenzie Friends) (PE1247)

The Convener: PE1247, by Stewart Mackenzie, calls on the Scottish Parliament to urge the Scottish Government to introduce a McKenzie friend facility in Scottish courts as a matter of urgency. Do members have any views on how we might deal with the petition?

Nigel Don: We seem to be making progress, and in some areas we seem to be making it very fast. I am grateful that the Lord President seems to have sorted out the Court of Session. My reading of the papers is that the sheriff court rules are being dealt with, but the Sheriff Court Rules Council seems to have gone a little bit slower. I do not think that I need to be critical of it, nor do I doubt its intention.

However, I am conscious that the sheriff court is different—the sheriffs have acknowledged that themselves—and I would like us to be sure, once again, that the rules are in the public domain before we close the petition, not because I doubt the council's intention but because I suspect that some of what has happened is a result of some comments that have been made in this place. If the rules as they are promulgated do not seem to fit the bill, this may be one way of bringing that to public attention and correcting it. I would be loth to close the petition until we have seen the sheriff court rules and can comment on them.

The Convener: If no one is otherwise minded, we will continue with the petition until we get more information.

Members indicated agreement.

Holiday and Party Flats (Regulation) (PE1249)

The Convener: PE1249, by Mr Stanley Player, calls on the Parliament to urge the Scottish Government to introduce a statutory duty on landlords offering short-term holiday and party-flat leases to register the property as such and to comply with all necessary house in multiple

occupation, noise, safety and environmental regulations. Sarah Boyack had hoped to attend to speak to the petition. She has been unable to, but she has written in support of the petition a letter, of which members have a copy.

I seek members' views on how to proceed.

Cathie Craigie: I suggest that we continue with the petition. Although the minister has made an announcement, which has prompted Sarah Boyack's letter, I think that we need to see a little more information on that and how the proposals are intended to develop.

Robin Harper: Can we ask a couple of specific questions? Will the review of the landlord registration system have an impact on the issue and, if so, in what way, and will the proposed private housing bill have any impact? We need a comprehensive response from the Government on the issue, which in Edinburgh is certainly becoming more and more of a problem.

The Convener: Is that agreed?

Members *indicated agreement.*

Medical Negligence (Pre-NHS Treatment) (PE1253)

The Convener: PE1253, by James McNeill, calls on the Scottish Parliament to compel the Scottish Government to establish a discretionary compensation scheme to provide redress to persons who suffered injury due to negligent medical treatment prior to the establishment of the national health service.

Again, I would welcome the views of the committee on how to deal with the petition.

Nanette Milne: I think that we should keep the petition open. There seems to have been a misunderstanding about what the committee actually asked the Government. We were not referring to a specific case but were looking at the principle of discretionary compensation, and it appears that it has not been referred to the no-fault compensation review group. We should get back to the Government and suggest that it look again at what we really asked and consider referring it to that group.

The Convener: Absolutely. Is anyone otherwise minded?

John Wilson: The petitioner has raised one other issue in the response that we have received: whether we wish to consider seeking legal opinion or advice for clarification of the relevant sections of the National Health Service (Scotland) Act 1947—in particular sections 6 and 13, which deal with liability issues that arose prior to the inception of the NHS.

The Convener: Yes, that would be helpful. Is it agreed that we continue that petition?

Members *indicated agreement.*

Voluntary Sector Mental Health Services (Funding Framework) (PE1258)

The Convener: PE1258, from John Dow, on behalf of TODAY—Together Overcoming Discrimination Against You and Me—calls on the Scottish Parliament to urge the Scottish Government to introduce a fairer funding framework for all local, regional and national charities and organisations that support individuals who have mental health issues, and new guidance on the best value and procurement of support services.

What are committee members' views on the petition?

Robin Harper: Briefly, given the constraints on public expenditure at the moment, it is incredibly important that what there is should be shared out with absolute fairness and equity, so this is an important petition and we should continue it. We should write to the Scottish Government and ask it to give us a copy of its finalised report for the petitioner to comment on. We should also ask the Government to report back at the conclusion of the consultation on what the outcomes and actions are going to be with a timetable for going forward.

The Convener: So, it is agreed that the recommendation is that we continue the petition.

Trade Missions (Israel) (PE1308)

The Convener: PE1308, from Asid Khan, calls on the Scottish Parliament to urge the Scottish Government to review its policy with respect to trade missions or trade initiatives by publicly funded bodies to Israel and to direct or influence Scottish Trade International to end any on-going initiatives with Israel.

I seek members' views on how to proceed with the petition.

John Wilson: We have had responses from the United Kingdom Government and the Scottish Government, which have raised their concerns about the actions of the Israeli Government. In the light of the responses that we have received, I suggest that we close the petition under rule 15.7.

The Convener: Are there any other views?

Members: No.

The Convener: It is agreed that we will close the petition.

Planning Circular 3/2009 (PE1320)

The Convener: PE1320, from Douglas McKenzie, on behalf of Communities Against Airfield Open Cast, calls on the Scottish Parliament to urge the Scottish Government to amend planning circular 3/2009, on notification of planning applications, to provide the same status to a planning objection to a major development from a neighbouring local authority as to one from a Government agency, in order to trigger a notification to the Scottish ministers; and to state that such objections by a neighbouring local authority to major developments that represent a departure from the development plan should be a significant factor in a decision to call in an application. Iain Gray MSP is here to speak to the petition.

Iain Gray (East Lothian) (Lab): Thank you, convener. I appreciate the opportunity to say a few words in support of petition PE1320. The petition has all the characteristics of the best petitions to the Scottish Parliament and demonstrates all the reasons why we have the Public Petitions Committee. The idea of the committee was always that communities in Scotland should have the opportunity to bring forward proposals to change legislation or policy, based on their experience.

The petition, which seeks a change in the planning system, is directly based in a situation that is being faced in my constituency. An application for an opencast coal mine falls within the Midlothian Council area due to a footprint that follows the boundary between Midlothian and East Lothian exactly, but the nearest community of any significance to the proposed site is Ormiston, which is part of East Lothian. My constituents in Ormiston have discovered that the decision will be made entirely by Midlothian Council, of whose area they are not a part. East Lothian Council, of whose area they are a part, has no more say than any other statutory consultee.

There are differences in approach between the two local authorities on the issue of opencast mines. Midlothian Council has previously supported opencast mine applications. East Lothian Council, on the other hand, has had a presumption against opencast mining for some time, but the villagers of Ormiston find themselves in a position where their elected representatives are largely powerless in expressing that point of view.

Out of that, the campaign related to the issue, Communities against Airfield Open Cast, has developed a proposal to change the planning system and, as the campaign would say, to address a democratic deficit within it—by definition, the Scottish Parliament is about addressing a democratic deficit—to allow, in the circumstances that have just been described, the

bordering local authority in which the representation of the community that is most affected lies to have a far more effective voice in the decision about whether a planning application should go forward.

I note that, following the initial consultation that the committee undertook on the petition, the Royal Town Planning Institute in Scotland has supported the proposal. It states:

“it might be useful to give further consideration to introducing a system of referral to Scottish Ministers of certain types of Major applications as defined by the Planning Hierarchy, which is significantly contrary to the development plan and to which a neighbouring authority objects.”

The RTPi's support suggests that such instances are infrequent enough not to distort, hold up or cause a blockage in the planning system and that the injustice that my constituents feel is strong enough to require the matter to be addressed. On that basis, I ask the committee to continue the petition and to pursue it with the relevant committee or the Scottish Government, as the committee thinks appropriate.

16:00

Robin Harper: The convener will be fully aware that the residents of Temple, in east Midlothian—whom I, too, represent as a list member—are fully in sympathy with constituents in Ormiston, who are specifically affected. If the situation were reversed, Midlothian would respond in the same way as East Lothian has responded.

We should write to the Scottish Government and seek a response on some specific points. For example, do we have a clear definition of “national interest”? Is there any consistency in defining developments as such? The question of whether a development is needed, because it is in the national interest, seems to be part of the conversation. How do we define national interest in relation to such developments? What is the Government's response to the RTPi's response to our question about what happens when two neighbouring local authorities take different views on a development, given that, under the current regulations, there appears to be no higher body to which to appeal?

The Convener: With the committee's forbearance, I will make a couple of points as the member for Midlothian, as the planning application will be considered by Midlothian Council. In my view, the application should be turned down. In a sense, we are dealing with a different issue and my views on whether the application should go forward are not really part of the discussion, but I want to make my position clear. I have worked closely with my constituents on the issue. As Iain Gray said, in his capacity as member of the

Scottish Parliament for East Lothian, his concern relates to the democratic deficit that appears to result from the fact that his community is very close to the proposed site of this opencast development.

Both Iain Gray and Robin Harper mentioned the response from the Royal Town Planning Institute in Scotland, which supports the petition. I support continuation of the petition, if committee members are so minded.

John Farquhar Munro: I agree.

Nigel Don: I am a long way from the scene of this particular crime and will not pretend otherwise, but I am concerned that we should separate the issues. I quite see how borders cause a problem—they often do in public life. However, the letter from the Royal Town Planning Institute in Scotland—it is the paragraph just above the heading “Question 2”; the page is not numbered—states:

“However, Scottish Ministers do have a general power to intervene by calling in any planning application.”

If that is the case—I take it that those words mean quite simply what they appear to say—the minister has a general power to call in, and could therefore be persuaded by any mechanism to do so. Perhaps people should use the available mechanisms to persuade the Government minister to call in the application.

I am a bit concerned at the suggestion, which I think I heard from Robin Harper, that we should perhaps modify the definition of “national interest” to overcome the problem. With respect—perhaps I misheard Robin—that might be the wrong route to take. If a site is on a boundary, that is a problem, and it should not be solved by deciding that a site that is on a boundary suddenly becomes of national interest.

Robin Harper: It would be helpful to have a different—and clear—definition of “national interest”.

Iain Gray: Nigel Don makes a fair point. In truth, when my constituents originally approached me about the specific case from which the petition and the proposal arise, that was my understanding too. On that basis, I contacted the planning minister and argued that because of the interest of the neighbouring local authority—which has no formal place in the planning process other than as a statutory consultee—he should call in the application to make a determination.

The response that I received did not say that the planning minister did not believe that that was necessary in the circumstances. In essence, he responded that he had no such power to call in the application without any reason.

In spite of what the RTPI says, there is ambiguity as to whether the power to call in applications is that general. That is a further reason why the campaigner lodged the petition: he sought clarity on what would cause an application to be called in.

The Convener: That is helpful.

Nigel Don: Could we seek some clarity? If the minister is not sure, I am not sure from whom we would get such clarity, but we ought to have it.

The Convener: Yes. The current circular amended its predecessor

“by reducing the criteria which qualify for notification to just three where i) the authority has an interest ii) there has been an objection from a Government agency or iii) opencast coal proposals ... are within 500 metres of the community.”

It is clearly the second of those criteria—an objection from a Government agency—that is relevant to this petition. It has been suggested that the neighbouring local authority should be treated in a similar way, but we need to establish what the “national interest” is.

Nigel Don: I return to the sentence in the RTPI’s letter, which baldly states:

“However, Scottish ministers do have a general power to intervene by calling in”.

If that means what it appears to say, there cannot be any restriction on a general power. Perhaps the ministers do not have a general power; I do not know.

The Convener: We need clarification.

Cathie Craigie: When you are drafting the letter, it would help if you could re-read paragraph 4 of the letter from the Government, which mentions “genuine national interest”. To use that power, one would have to argue that a national interest is involved in the particular application that we are talking about.

The Convener: It is agreed that we will continue with the petition and seek further clarification from the Government. I thank Iain Gray.

Gypsy Traveller Sites (PE1321)

The Convener: The next petition is PE1321, by Lynne Tammi, on behalf of members of the Young Gypsy/Travellers’ Lives Project, calling on the Scottish Parliament to urge the Scottish Government to remove the Trespass (Scotland) Act 1865 from all future guidance on the management of Gypsy Traveller temporary and halt sites.

I seek members’ views on how to proceed with the petition.

Anne McLaughlin: I welcome the Scottish Government's statement that it will not refer to the Trespass (Scotland) Act 1865 in the site management guidance that is under review at the moment and its welcome for the involvement of the Young Gypsy/Travellers' Lives Project and other members of the Gypsy Traveller community in the review of the guidance.

I was struck by the statement from Justine Wilson, who is 20 years old and part of a travelling family. She said:

"At the start of the year we were staying on a road-side camp in Argyll. This camp was up an old back-road with many lay-bys. Every day new people—who were not Gypsy/Travellers—would arrive to spend some time there 'wild camping'—

whatever that is—

"but we were the only ones who were asked to leave."

The point that the petitioners make is that the act is used almost exclusively for the Gypsy Traveller community. It has been stated that the 145-year-old act—or however old it is—is used as a last resort, but the petitioners dispute that. Could we ask the Government whether it will reiterate strongly in the unauthorised camping guidelines and the site management guidance that the act should be used only as a last resort?

I understand that the guidance from the Association of Chief Police Officers in Scotland states that the act can be used. Can we write to ask whether it will consider removing that from the guidance and, if it will not do so, whether it will consider making a strong statement that the act should be used only as a last resort and should not simply target one section of our community?

The Convener: Are you suggesting that we continue the petition?

Anne McLaughlin: Yes.

The Convener: Okay. There are no other views from the committee, so that is agreed.

Dance (Schools and Colleges) (PE1322)

The Convener: The next petition is PE1322, by Jacqueline Campbell, on behalf of the residential provision parents group, calling on the Scottish Parliament to urge the Scottish Government to demonstrate how it will ensure the viability and future of dance teaching and coaching in schools and colleges across Scotland and through a national centre of excellence. Do members have views on how to deal with the petition?

Cathie Craigie: We should continue the petition and write to Glasgow City Council to seek an update on the meeting that was held with the Scottish Government in May.

The Convener: Is that agreed?

Members indicated agreement.

Shia Muslims (Community Centres) (PE1323)

The Convener: The next petition is PE1323, by Syed Ali Naqvi, on behalf of the Scottish Shia Muslims, calling on the Scottish Parliament to urge the Scottish Government to encourage and facilitate the creation of community centres dedicated to Scottish Shia Muslims. Do members have any views on how to deal with the petition?

John Farquhar Munro: I think that we should continue it and keep it open.

The Convener: Is that agreed?

John Wilson: I seek clarification from the clerk. When we discussed the petition previously, we agreed to write to a number of organisations. Can I take it that we have received responses only from the Scottish Council of Jewish Communities and the Scottish Government? I find that disappointing, given that we have given other organisations the opportunity to make a submission on the issue.

I suggest that we continue the petition and ask the Scottish Government the questions that have been posed about the resources available to not only the Shia Muslim community but other religious communities and about the use of existing community facilities.

I suggest also that we write again to the other organisations that were identified when we considered the petition originally to ask whether they intend to respond to the committee. It would be useful to know whether they intend to do so, because I find it disappointing that we took the time to write to organisations and they did not even give us the courtesy of a response. When the committee is asking for responses to petitions in future, it may need to think about having a list of organisations that it will not write to because they have previously failed to respond, even to acknowledge receipt of a letter.

The Convener: It has also been suggested that there are a couple of remaining questions for the Government to respond to that we should ask it again.

Do members agree to continue the petition?

Members indicated agreement.

Thomas Muir (Statue) (PE1325)

16:15

The Convener: Our final current petition today is PE1325, by Patrick Scott Hogg, calling for the Scottish Parliament to support the erection in the vicinity of the Parliament building or at an appropriate place on the Royal Mile of a statue of

Thomas Muir, who lived from 1765 to 1799. Do members have views on how to deal with the petition?

Nanette Milne: We could probably close it, as the Scottish Parliamentary Corporate Body and the City of Edinburgh Council have given good reasons why there should not be such a statue in the vicinity of the Scottish Parliament. The council has offered to give advice and assistance to the petitioner. We wish the project well, but we should close the petition.

John Wilson: I support closing the petition, but wish to put on record once again my disappointment at the Scottish Parliamentary Corporate Body's continued decision not to allow the erection of statues in the vicinity of the Scottish Parliament. Robin Harper can perhaps take back to members of the corporate body the point that there are public artworks displayed in the Parliament. It continues to be wrong not to recognise major influences on the political world—in the widest sense—and for the corporate body to be unable to make a decision on or to support the idea that we should do something to commemorate major political influences in Scotland and the rest of the world. However, as I said, I support Nanette Milne's recommendation to close the petition.

The Convener: Thank you very much.

New Petitions (Notification)

16:17

The Convener: Agenda item 3 is notification of new petitions. The committee is invited simply to note the new petitions that have been lodged since our previous meeting, which will come before us for consideration at the earliest opportunity.

I see Cathie Craigie getting ready to go. It is all right, Cathie; we are finishing.

I thank all members of the committee for their efforts in tackling the petitions that have been before us today. The next meeting of the committee will be at Arran high school on Monday 13 September. I look forward to meeting all of you there, if possible.

Meeting closed at 16:17.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

Members who wish to suggest corrections for the archive edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Printed and published in Edinburgh by RR Donnelley and available from:

Scottish Parliament

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

Public Information Service

The Scottish Parliament
Edinburgh EH99 1SP

Telephone: 0131 348 5000

Fòn: 0131 348 5395 (Gàidhlig)

Textphone users may contact us on **0800 092 7100**.

We also welcome calls using the Text Relay service.

Fax: 0131 348 5601

E-mail: sp.info@scottish.parliament.uk

We welcome written correspondence in any language.

Blackwell's Scottish Parliament Documentation

Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries

0131 622 8283 or

0131 622 8258

Fax orders

0131 557 8149

E-mail orders, subscriptions and standing orders
business.edinburgh@blackwell.co.uk

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:

243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Accredited Agents

(see Yellow Pages)

and through other good booksellers