

PUBLIC PETITIONS COMMITTEE

Tuesday 23 May 2000
(*Afternoon*)

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PUBLIC PETITIONS COMMITTEE

9th Meeting 2000, Session 1

CONVENER

*Mr John McAllion (Dundee East) (Lab)

DEPUTY CONVENER

Pauline McNeill (Glasgow Kelvin) (Lab)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)
*Christine Grahame (South of Scotland) (SNP)
*John Scott (Ayr) (Con)
Mrs Margaret Smith (Edinburgh West) (LD)
*Ms Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING MEMBERS ALSO ATTENDED:

Patricia Ferguson (Glasgow Maryhill) (Lab)
Michael Russell (South of Scotland) (SNP)

WITNESSES

Mrs Cathleen Hanlon (Irvine Pensioners Action Group)
Derek Keith (Scottish Campaign for Public Angling)
Mr Sandy Meiklejohn (Dundee and Tayside Chamber of Commerce)
Jim Milne (Dundee Anti Poverty Forum)
Davie Reid (Dundee Anti Poverty Forum)
Margaret Smith
Mr John R D Stewart
Mr Charles Bell Thom

SENIOR ASSISTANT CLERK

Steve Farrell

ASSISTANT CLERK

Jane Sutherland

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 23 May 2000

(Afternoon)

[THE CONVENER *opened the meeting at 15:36*]

The Convener (Mr John McAllion): I welcome everyone to the ninth meeting this year of the Public Petitions Committee. We have an apology from Margaret Smith and Mike Russell has indicated that he will join us later to speak to petition PE195. I welcome Patricia Ferguson, who is here in support of petition PE200.

I give a special welcome to the delegation from the Petitions and Public Participation Committee of the Gauteng Provincial Legislature of South Africa, which is visiting the Parliament this week and has expressed particular interest in seeing the Public Petitions Committee in operation. Most of the committee met the members of the delegation earlier and had a tremendously interesting exchange of views.

Our visitors have presented me with a gift of a model of Nelson Mandela, which will belong to the committee rather than to me.

Christine Grahame (South of Scotland) (SNP): You can hang it on your wall, John.

The Convener: We could take turns hanging it on our walls. I am grateful for that presentation to the committee. I hope the members of the delegation enjoy the meeting and indeed the rest of their stay in Scotland.

I remind members that we will deal with 15 petitions at this meeting. To begin with, six groups of petitioners asked to speak to their petitions; that has increased by two. In addition, we have six or seven other petitions to deal with, as well as current petitions to consider. I ask members to be brief in their questioning and to try to keep to the point when we move to current petitions.

New Petitions

The Convener: We move to the first petition, from Mr Charles Thom, about common property divisions. Mr Thom is here to speak to the committee. Mr Thom, we ask people who speak in support of petitions to take two or three minutes to address the committee about the petition's main points. We then give members a chance to ask questions.

Mr Charles Bell Thom: This is a petition on a

legal matter on which the law in Scotland is grossly inadequate and in disarray. As the petition has been presented to the committee in full detail, I propose not to spend much time going into the detail. I have picked out two salient points that, although included in the detail, should convey to the committee what I have been up against for a long period. It is a dispute on the legal standing of boundary divisions. The Scottish Law Commission is highly involved, as is the Executive.

First, I wrote to the committee clerk indicating that my objective—and that of the people who support my petition—was to have the petition referred to the Justice and Home Affairs Committee for investigation. That is where the detail would most appropriately be put forward and considered fully. I understand that the Public Petitions Committee is a filtering committee; nevertheless, it is a first step in an important process.

When I wrote to the clerk, I indicated that a flip-chart would explain diagrammatically some of the aspects on which the law is confused and unable to operate in a commonsense way. My MP, Mr Donohoe, wrote to the Scottish Law Commission, inviting its representatives to North Ayrshire to consider the aspects of a defined area that convey the utter inoperability of the law. The SLC did not have the courtesy to reply to his invitation.

I busied myself preparing diagrams, which I took to the Royal Incorporation of Architects in Scotland, to confirm that I was technically correct. It okayed the diagrams, which is why I want to use a flip-chart to present the case in detail, if that is appropriate and if the committee agrees.

The second point I wish to stress relates to appendix 4 of my petition: a letter from Mr Donohoe to the then Secretary of State for Scotland. There are a number of legal points in that letter that have never been disputed by the Scottish Law Commission, the Executive or anyone else. I commend anyone investigating the issue in detail to look at that letter and to digest the legal points made therein. I presume that the points cannot be refuted, otherwise that would have been done.

In the letter, you can see the part played by a Mr Reid, who opposed the SLC, which at that time was supporting my line in the law. The trouble has arisen because a second, different, SLC has, by its own admission, changed its opinion on what the real law in Scotland on property divisions is.

The first commission supported it; the other commission overturned what the first commission said. That is accepted by the second law commission and by the Executive. There is no dispute on that now.

Mr Reid organised the opposition from outside

the Scottish Law Commission in relation to the first commission. In due course, the said Mr Reid became a member of the Scottish Law Commission; an influential member who was the prime mover in the property committee, or something similar to a property committee, operating within the SLC.

15:45

The Convener: Mr Thom, could you draw your remarks to a close? There are time pressures.

Mr Thom: I will stop there. Those are the two points.

It is clear that the dispute is difficult and tricky. It has reached the stage where I feel that there is—I will use my words carefully—some lack of intent to examine this properly and attempts to defend the indefensible. This is a dispute where I think that I am right and the opposition to what I have been purporting has been caught out very badly, but it has refused to admit to that fact.

That is why the petition is here today and that is why I ask for it to be passed on.

The Convener: Thank you very much.

In your dispute with the SLC, the Scottish Office and then the Scottish Executive, you have pursued every avenue open to you through your MP and your MSP to address this issue. Have you been unable to achieve any satisfaction? Is that why you are now petitioning the Scottish Parliament?

Mr Thom: That is correct.

Christine Grahame: I should perhaps declare an interest to Mr Thom, as I am a registered solicitor. Although I am not a conveyancer I have some knowledge of conveyancing law. As you are very thorough in this, I am sure that you appreciate the complexity of this when there are liabilities in title deeds for certain maintenance, especially within tenemented buildings. Would it be appropriate for us to return to the SLC and/or the Law Society of Scotland for their comments on the issues raised in your petition and whether they propose, as a first step, to reform the law of the tenement and common and joint property in Scotland?

Mr Thom: I honestly do not think so. We have pursued this for more than 10 years. The Law Society has shown itself to be quite frankly unreliable in many aspects of its actions, its work, its declarations and its writings. We have pursued this through the Executive, but have made no progress. The petition asks for an independent inquiry into this matter, because we are up against—I, my supporting MPs and the Royal Incorporation of Architects—a well-entrenched

establishment. It will not give ground, in spite of the fact that it has been led into all sorts of indiscretions, many of which are pinpointed in the petition. Some are ridiculous, but there you have it.

Either an independent inquiry should be appointed or we must get to the crux of the matter through the Justice and Home Affairs Committee, perhaps asking the Executive to reopen the matter.

The Convener: Thank you very much, Mr Thom. We will now discuss what should be done.

The recommendation is that the petition should be passed to the Justice and Home Affairs Committee for its consideration.

Christine Grahame: I know what the agenda of the Justice and Home Affairs Committee is. At the moment, it would be in a position only to remit it elsewhere. That committee does not have the time in the foreseeable future to launch an investigation, even if it were appropriate; and I have my doubts about that because we are dealing with the existing law of Scotland as it is in title deeds and in case law.

There is an argument for reform of the law of the tenement and the law of common and joint property. I suggest that we get the comments of the Scottish Law Commission because it is, after all, impugned in this. We should also ask the Law Society of Scotland whether it has any observations to make on reform of those laws. We should also ask the Minister for Justice for his views—we are, after all, examining land reform in Scotland.

Ms Sandra White (Glasgow) (SNP): I would send the petition to the Minister for Justice. I have a great deal of sympathy with Mr Thom. I was a councillor for 10 years, so I have come up against those laws. The Minister for Justice would be the best person to deal with the matter. The Justice and Home Affairs Committee is overloaded at the moment, so going straight to the minister to ask for an independent inquiry would be the best route to take.

Helen Eadie (Dunfermline East) (Lab): I would like to add my support to the points that have been made by my colleagues, but I will not reiterate them. I have had to deal with a number of boundaries issues and I have spoken to the Minister for Justice about the matter. I know that he feels that there is a need for action.

There is a mediation service in England, but not in Scotland. I know that the Minister for Justice was minded to examine the introduction of such a service. There is need for a strong mediation service in Scotland. It would help if many of the problems were sorted out in the early stages,

rather than when the situation became more advanced. I do not want to take anything away from what my colleagues have said, however.

The Convener: We have attempted to keep to a minimum the number of papers that have been circulated to members. There is some very detailed background information that goes back many years on the case. There is much evidence that has led Mr Thom to believe that he was not dealt with entirely openly by the Scottish Law Commission or, indeed, by the then Scottish Office's legal advisers.

I appreciate that the Justice and Home Affairs Committee would be unable to deal with the matter immediately, so as an interim measure we should pass all the papers to the Minister for Justice and ask him to send a response to us. We could then consider further what steps the minister should take in pursuit of the matter.

Christine Grahame: We should separate the two issues, convener: mediation is a separate issue from reform or review of the law on common and joint property. Those two separate strands should be brought out in the letter to the minister. It is a complex area of Scots law, but there cannot be an independent inquiry into Scots law—there must be a formal review of it. Independent is not the appropriate word.

The Convener: The use of the word independent referred to the inquiry not being conducted by the Scottish Law Commission or the Scottish Executive, but by somebody independent of those bodies. That is what the petitioner is getting at.

Christine Grahame: I appreciate that, but I cannot see the matter being subject to any detailed investigation this year by the Justice and Home Affairs Committee, given that committee's work load.

Helen Eadie: Christine made the valid point that we should send the papers not only to the Minister for Justice, but to the Scottish Law Commission, which is impugned in the report.

The Convener: I am concerned that it will just be added to the pile. The committee must be satisfied that the petitioner's request is dealt with properly. It might be best to send the petition to the Minister for Justice and the Law Commission. The committee could decide thereafter how to progress with the matter.

Members indicated agreement.

The Convener: The second petition is from Mr D Keith on behalf of the Scottish Campaign for Public Angling. Mr Keith, would you like to come forward?

The petition deals with the River Tay Catchment

Area Protection (Renewal) Order 1993 Variation Order 1996. I should, perhaps, declare an interest as a constituency member from Tayside. Mr Keith, will you speak to your petition, please.

Derek Keith (Scottish Campaign for Public Angling): The Scottish Campaign for Public Angling has been campaigning against the exclusion order—as it is known to anglers—since it was introduced in 1986. It has been renewed several times and in 1996, prior to the general election, it was renewed by the former Secretary of State for Scotland, Michael Forsyth, without a time limit. Since 1986, there has been a reduction in the participation in angling on the Tay. The figures that were released recently by Perth and Kinross Council show a decrease in resident permits sold from more than 1,000 in 1984 to just over 200. The number of visitor permits sold has also fallen, from just under 1,000 in 1984 to 25 last year.

Most of the Tay system is closed to the public. Almost all the burns and small lochs, much of the main Tay and much of Loch Tay are completely closed to the public. When he granted the order in 1986, the former Secretary of State did so on the condition that the river would be opened up to the public. That has not happened, and there has been a complete collapse in the participation in angling. Many demonstrations have been staged by anglers on the Tay, which have achieved a lot of publicity in the media. This campaign—SCaPA—has visited the House of Commons and met politicians of various political parties in an attempt to bring this matter to their notice.

We believe that, following the setting up of a Scottish Parliament, there is a chance—at long last—for consideration to be given to the scandal of what has happened on the Tay. We do not underestimate the strength of the opposition that we are up against: we are up against some of the richest and most powerful landowners in Britain, who have contacts in the House of Lords, industry, commerce, farming and political parties. We are a grass-roots organisation, and we take our support from wherever we find it. We do not receive support or funding from people who have a vested interest in the Tay or in Scotland's fishing rights.

We would like the Public Petitions Committee and the Scottish Parliament to send out a message to the landowners and to those who deny the people of Scotland access to our own land that enough is enough: access must be granted, starting with the largest river system in Scotland. We ask that the River Tay exclusion order be revoked.

The Convener: Thanks very much, Mr Keith. Who makes the decision about which parts of the Tay will be closed to the public?

Derek Keith: Sorry?

The Convener: Who makes the decision about public access? Is it written into the order?

Derek Keith: No, sir. It is purely voluntary. Prior to the 1986 order, it was not a criminal offence to fish for trout and other freshwater fish—that is, everything apart from salmon and sea trout—anywhere on the Tay system without permission. In return for bringing the law into the criminal arena, landowners and certain clubs promised to give access to ordinary anglers. By and large, those promises have never been kept—most have just been torn up.

The Convener: Landowners and clubs issue the permits?

Derek Keith: That is right.

The Convener: And they are not doing that?

Derek Keith: No.

Christine Grahame: Is the forthcoming legislation on access rights to land and the land reform legislation a completely separate issue, or does it concern you as well?

Derek Keith: I understand that the proposed access to land legislation has specifically ruled out dealing with access to water and fishing rights.

Christine Grahame: That is under review. Other interested groups have brought that to the attention of the Justice and Home Affairs Committee. You may want to consider that as well.

Derek Keith: The Deputy Minister for Rural Affairs, John Home Robertson, has introduced a consultation document on freshwater fisheries. It was referred to in an excellent article in *The Herald* last week by Dennis Canavan. We will respond to that document which, although it does not specifically mention the Tay, mentions the exclusion orders. We do not think that it is a radical document and would like it to be much more radical. We would like all fishing rights to be brought into public ownership under a Scottish anglers trust.

Ms White: You said that landowners can give fishing permits to groups. Do they give them voluntarily? I do not mean that they do not charge for them, but there is no law that says that they must give out permits.

Derek Keith: The Freshwater and Salmon Fisheries (Scotland) Act 1976, which was passed by the previous Labour Government, stated that permits were to be made available in exchange for criminal protection, but only on the voluntary principle. Most of the Tay system is totally closed; even the people who run it would not disagree with that. If the land changes hands, people can tear up any agreements, tell fishermen to get lost and

still keep the criminal protection.

16:00

The Convener: Thank you, Mr Keith. The suggestion is that we pass this petition to the relevant subject committee. It is yet to be established whether that is the Transport and the Environment Committee or the Rural Affairs Committee. Christine, you seem to be suggesting that the Justice and Home Affairs Committee could have an input.

Christine Grahame: I just meant that the petitioner should keep an eye on when the matter appears on the Justice and Home Affairs Committee's agenda.

The Convener: You were not suggesting that we refer it to that committee?

Christine Grahame: No. I want to live; I do not want to rouse Roseanna Cunningham's ire. However, I suggest that the petition could usefully come before the Justice and Home Affairs Committee. My view is that we should refer the petition to the Rural Affairs Committee. The man I was thinking of—Dennis Canavan—who is a member of the cross-party sports group and a keen angler, was mentioned. We have referred petitions to cross-party groups before. I think that that group could consider the matter and move things forward.

The Convener: Cross-party groups are unofficial and have no powers.

Christine Grahame: I know that.

The Convener: I would rather send the petition to the Rural Affairs Committee or the Transport and the Environment Committee.

Christine Grahame: I meant that we could send it to both. Dennis Canavan has an interest in angling and has already raised the matter.

The Convener: Have members decided whether the Transport and the Environment Committee or the Rural Affairs Committee should get the petition?

Helen Eadie: I think that the Rural Affairs Committee should consider it.

John Scott (Ayr) (Con): I would like to clarify something. What is the order supposed to provide protection from?

The Convener: From fishermen, I suppose.

Christine Grahame: Or from over-fishing.

Ms White: Mr Keith is the best person to answer that question. I would have thought that it was brought in to stop so-called poachers, but that nobody is allowed to fish there now.

The Convener: Is it poaching that the protections refer to?

Derek Keith: No, sir. It is unfinished business from the 19th century. It is just another way to keep people off. It is not to protect fish but to protect the property rights of landowners.

The Convener: Once witnesses have retired from the table, the official reporters cannot hear what they say to record their answers, so they do not officially exist. However, as the reporters have heard Mr Keith in this case, I shall let the answer stand.

We should send the petition to the cross-party sports group for information, but it should go to one of the two subject committees that I suggested. Which is more appropriate?

Members: The Rural Affairs Committee.

The Convener: We shall send it to the Rural Affairs Committee and ask it to consult the Transport and the Environment Committee in case those members want to have some input. That is agreed.

We are still waiting for Mike Russell to arrive to speak on petition PE195.

The next petition, PE196, is from the Dundee and Tayside chamber of commerce and industry, on planning. As a constituency member from Dundee, I must declare an interest in the subject of this petition. Mr Sandy Meiklejohn, the chairman, has two or three minutes in which to make a presentation to the committee before members ask questions.

Mr Sandy Meiklejohn (Dundee and Tayside Chamber of Commerce and Industry): I am, in fact, the past president of Dundee and Tayside Chamber of Commerce and Industry. I am also a practising solicitor in Dundee, but I shall preface my comments by saying that I am not an expert in planning by any stretch of the imagination. Perhaps members can bear that in mind if they have any questions for me.

Our petition relates to section 46 of the Town and Country Planning (Scotland) Act 1997, which deals with the power of the Secretary of the State—now the First Minister—to call in planning applications. This is not just a Dundee issue, but it is particularly relevant for Dundee, which is the smallest local authority area in Scotland and is only 40 per cent of the size of the next smallest. A number of Dundee's former suburbs and development land have found their way into neighbouring local authority areas.

Before local government reorganisation, regional councils were in a position to ensure that significant planning decisions could be taken with due regard to their regional impact by calling them

in where appropriate. Under section 46 of the 1997 act, the power to call in now rests solely with the First Minister. The section gives the First Minister the power to issue directions, so specific planning applications, or planning applications of a particular type, are referred to and determined by him.

Our concern is that the former—or what you might call the interim—stage, in which the regional council called in a planning application, is no longer available. We feel that that could be a retrograde step. As we state in our petition, it means that one local authority—albeit with the benefit of representations from the neighbouring local authority—can determine a planning application that has a significant impact on the residents and businesses in the neighbouring area.

I hesitate to suggest answers to the problem that we have brought before the committee, but I would direct members' attention to the power under section 43(1)(c) of the 1997 act by which regulations can be made that require local authorities to consult prescribed authorities or persons. Under section 46, the First Minister can also give directions for a regional impact assessment to be carried out in appropriate cases and require local authorities to have regard to that assessment. The failure of a local authority to do so might be relevant if there were an appeal against a decision made by that authority.

I appreciate that by using the expression "significant social and/or economic impact" in the petition we are begging the question how that would be defined. Concerns have arisen over applications that have been dealt with by Dundee City Council—concerns from outwith the council, I hasten to say. The concerns were that if applications were not granted, developers might boundary-hop into Angus and get a more satisfactory outcome there. Equally, on a smaller scale, an application relating to a village post office that was just on one side of a boundary could have a direct impact on the residents in the neighbouring local authority area. Trying to define "significant social and/or economic impact" might be difficult; as a lawyer, I would say that that might be best left to the courts to deal with.

That is as much as I want to say in support of the petition; I will do my best to answer any questions.

The Convener: Thank you. Under the present powers, the First Minister cannot call in an application on the basis of its regional impact. Is that correct?

Mr Meiklejohn: I have to say that I am not clear about the criteria under which the First Minister can call in a planning application. All I can do is

direct members to section 46, which gives him the power to do so. We are concerned that—even though a neighbouring local authority is concerned about it—there is no guarantee that something with significant social and/or economic impact will be called in. That decision is left to the discretion of the First Minister.

The Convener: Are you looking for statutory protection—against boundary-hopping, for example?

Mr Meiklejohn: One way of dealing with the problem would be to have statutory protection against boundary-hopping. Another intermediate step might be for the First Minister to issue directions to planning authorities requiring them, as I said, to carry out a regional impact assessment in appropriate cases, which might lead to an appeal if the local authority had disregarded the result of that assessment. As I understand it, taking that step could be done within existing legislation, without the need for fresh legislation.

Ms White: You said that it should be the First Minister who calls in planning applications that have a significant social and/or economic impact. Were you talking about every application with such an impact, or only those about which a concerned neighbouring local authority had written to the First Minister? Do you want the First Minister to see every planning application with such an impact before it is discussed by the local authorities?

Mr Meiklejohn: In asking that question, you have highlighted one of the difficulties that we have recognised—that of trying to identify which applications have significant social and/or economic impact. Clearly it would be unworkable if every planning application were called in. If the First Minister is to take any action, criteria will have to be laid down. In the examples that I gave, I was trying to highlight the difficulty in identifying criteria that might be relevant in one set of circumstances but irrelevant in another.

Christine Grahame: Are you aware that petitions on planning issues have been brought to this committee before?

Mr Meiklejohn: No.

Christine Grahame: We have heard petitions that concern what would be called third-party rights in planning applications. Your petition concerns the right of another local authority. Are you of the view that it would be reasonable for your petition to join up with other petitions that we have that deal with other planning issues, one of which is third-party rights?

Mr Meiklejohn: That is an eminently sensible suggestion.

Helen Eadie: I wanted to ask about a couple of

planning applications that I am aware of. One was the Westfield inquiry and the other was Garthamlock; the Secretary of State for Scotland called in both applications. Are you aware that the Secretary of State for Scotland made a determination based on social and economic impact? How does that sit alongside the points that you are making?

Mr Meiklejohn: I am not aware of those cases, but I am aware that the Secretary of State for Scotland has the power to call in planning applications. However, at the moment our concern is that there is a random element to that. There is no guarantee that the perception that there will be a significant social and economic impact on a local authority area will result in that particular application being called in. It is entirely a matter for the discretion of the Secretary of State for Scotland. You may say that that is rightly so, but it creates uncertainty when one local authority area seeks to protect its own interests when an application is determined by a neighbouring local authority area.

The Convener: There are no more questions, so I thank Mr Meiklejohn.

We will now consider the petition. The suggestion is that we pass it to the Transport and the Environment Committee, which is responsible for planning issues, but the Local Government Committee could also have an input. Perhaps we should suggest to the Transport and the Environment Committee that it consult the Local Government Committee.

This is a major issue, in which I have already declared an interest. Dundee City Council turned down a major planning application, and then reversed that decision when it became obvious that Angus Council was about to grant the same application just across the boundary. Councils were taking decisions that they had initially decided against, simply because if they did not, the application would boundary-hop into a neighbouring authority. While the First Minister has the discretion to call in applications, he often does not, for whatever reason. We have to consider whether there is any way to toughen up the process and take a regional view, because there are many councils, which really constitute regions, which often act against each other within the regional economy.

John Scott: What about structural plans?

The Convener: Structural plans are usually the lowest common denominator that can be agreed between two local authorities.

Christine Grahame: Perhaps we could link this petition with petition PE132. I believe that there is another petition on this topic. We could ask the minister whether the Executive will be looking at

planning law, because there is a serious issue about third-party rights.

The Convener: In passing the petition to the Transport and the Environment Committee, we are handing over the policy consideration to it.

Helen Eadie: We could write to Sarah Boyack and ask her for clarification, because there are national planning policy guidelines, which set out guidance to local authorities. Statutory consultation is required for structure plans, and not only for people living in the structure plan area. As I understand it, neighbouring local authorities have an obligation to consult also.

The Convener: I accept that, but I am concerned that having passed a number of petitions to the Transport and the Environment Committee for its consideration, we would be cutting across what it is doing by writing to the minister.

Helen Eadie: We are only asking for information.

The Convener: We could recommend that the Transport and the Environment Committee contact the minister, to find out what the Executive is saying on the matter.

Helen Eadie: That is fine. I am happy with that.

Ms White: We should certainly pass the petition to the Local Government Committee.

The Convener: I welcome Mike Russell to the proceedings. We were holding back the petition in which he is interested until he got here.

Michael Russell (South of Scotland) (SNP): I apologise, convener. I have been speaking to another petition in the Education, Culture and Sport Committee, such is my strong, warm and public support for your committee and your convenership, as you know.

The Convener: That is good news indeed. A member of the Parliamentary Bureau who is on our side is useful.

Michael Russell: I said that deliberately to get it on the record. I am grateful to you—

The Convener: I am sorry: the petitioners have not spoken to this petition yet.

Michael Russell: I was just going to introduce them, if that is possible. We like to do things in a theatrical manner in the Parliamentary Bureau.

The Convener: Absolutely.

Michael Russell: I will introduce the people who are with me. Cathleen Hanlon will speak in support of the petition. Her mother, Catherine Carlin, and her friend, Margaret Gill, both of whom are residents of Cheviot Court in Irvine, are also here.

The Convener: I welcome the petitioners to the committee. The petition calls on the Scottish Parliament to seek an inquiry into North Ayrshire Council's decision to reduce its warden cover in sheltered housing and to assess and review the warden service on a national basis.

16:15

Mrs Cathleen Hanlon (Irvine Pensioners Action Group): The pensioners feel vulnerable and believe that they need the wardens to make them feel secure and safe. Some of the pensioners are frightened and feel that they need the presence of the wardens, particularly at night and at the weekends as that is when youths hang about and vandalise the buildings. The residents of the sheltered housing complex are happy in the knowledge that the wardens are there to provide assistance or call the police if necessary. The wardens are there for them if they take ill and need a doctor or ambulance. They not only call the emergency services, but sit and calm them until they arrive.

The pensioners are deeply worried about bogus callers and unwanted guests. Some of the pensioners have bad eyesight and cannot see the caller's identification badge. Wardens, being concerned about the pensioners' well-being, take on the task of ensuring that callers are not bogus.

Most pensioners have no family to call on, so the wardens are the only people who can give them support and comfort in their hour of need. All that the pensioners are asking for is the security, care and peace of mind that the wardens give them. They do not want that taken away from them.

Michael Russell: This case has strong local support. However, it is not about the right of the local authority to make its own financial decisions—that is respected. The case has national implications in terms of the care and welfare of elderly people. There are a number of proposals to take away warden services throughout Scotland. In addition, there are a number of proposals to charge additional sums for community alarms—that is happening in Irvine, where the sum is now £2 a week. I do not have to remind members that the pension increase is, on average, 73p a week.

There have been equivalent cases south of the border, where—in some cases—the right to warden care is written into the missives of sheltered housing.

This case is important in its own right, but it is also important in terms of the standard of care that elderly people can expect and their demands on and expectations of a society that they have served and paid for. The consideration of the

petition by the appropriate committee would be helpful in airing the case and the national issue.

Ms White: I thank Cathleen Hanlon for bringing the petition before us. As Mike Russell said, the issue is important throughout Scotland. Many councils have withdrawn funding; it is important for the Parliament to talk about it.

How many people live in the complex?

Mrs Hanlon: There are 22 units in North Ayrshire, with 20 houses in each unit. I have had quite a few phone calls from people in other units asking to join our campaign. Many of them are fearful of being put into a nursing home.

Ms White: They want their independence, obviously.

How much is the council saving by cutting back on the wardens?

Michael Russell: I do not have the figures for that, but I am sure that we can provide the committee with that information later.

Christine Grahame: I should declare an interest as I am the SNP spokesperson for older people.

What is the layout of the sheltered accommodation, the alternative to which is the so-called alarm system? I would like you to state for the record why the warden system is essential.

Mrs Hanlon: There is an elderly lady in our sheltered housing who cannot speak. With the alarm system, the resident presses a button and tells someone what is wrong. That lady would be unable to tell anybody what was wrong. I will give you a good quotation. One of our pensioners asked a councillor what she was supposed to do if she dropped dead of a heart attack and was told, "Press your button."

Christine Grahame: What do wardens do?

Mrs Hanlon: Wardens go in every morning and evening. If someone is not well, the warden will phone the doctor or the person's family. They might go in late at night to offer someone a wee cup of tea or something—to save the family having to come round at that time of night, because there are drug addicts and other people hanging about. If the warden has concerns, they might sit for an hour and calm the person down until the doctor comes. Last year, there was a wee man dying and the warden sat with him all night because she was afraid to leave him. It is the personal touch that the pensioners will lose out on.

John Scott: Is this part of a programme of cuts in North Ayrshire, or is it an isolated cut in expenditure?

Michael Russell: There is a programme of cuts in the council. However, this issue is a national

issue because it is happening in other councils, as part of a cutting or rationalisation process.

John Scott: The point that I am making is that different councils are cutting different services across the country and that, for whatever reason, the councils seem to be underfunded.

Michael Russell: I am sure that John Scott can say that, as might I, but the rest of the committee might not agree—although, looking at the whole committee, perhaps it might.

The Convener: I had better not comment on that.

Christine Grahame: How many wardens are involved?

Mrs Hanlon: There are 22 full-time wardens and there are relief wardens to cover days off and holidays. All the people who provide cover for holidays, overnight and weekends will lose their jobs.

Christine Grahame: You are saying that the cuts will mean that sheltered housing will lose the personal touch and the security that is offered by many of the wardens over and above the call of duty.

The Convener: Thank you for coming to speak to your petition.

Again, the recommendation is that we pass the petition to the Social Inclusion, Housing and Voluntary Sector Committee. I realise that wardens are sometimes funded by social work departments and so on, but the petition certainly raises a social inclusion issue. The actions of North Ayrshire Council are a matter for North Ayrshire Council, but there is a national dimension to the issue that the Parliament should consider.

Christine Grahame: The petition should go to Iain Gray. As we know, this is happening throughout Scotland and we must address the issue head on.

The Convener: If we pass the petition to a policy committee, we can recommend that it consult Iain Gray about the Executive's position, although we cannot direct the committee's inquiry.

John Scott: Iain Gray should certainly be made aware of the petition; it is symptomatic of a problem throughout Scotland.

The Convener: Okay. We can refer the petition to the Social Inclusion, Housing and Voluntary Sector Committee.

Christine Grahame: We can tell the committee that we have also sent the petition to the Deputy Minister for Community Care to note.

The Convener: We can pass the petition to the Social Inclusion, Housing and Voluntary Sector

Committee and to Iain Gray for information; any response that he wishes to make could be sent to the committee. Is that agreed?

Members *indicated agreement.*

Michael Russell: I thank the committee for its valuable support.

The Convener: We will be looking for similar support when the crunch comes.

We were supposed to consider that petition third, but we held it back until Mike Russell was available.

I am conscious that Patricia Ferguson has been here from the beginning of the meeting. She is interested in petition PE200 from Mr Andrew Watt. Mr Watt is not here, but Patricia would like to speak to the petition.

Patricia Ferguson (Glasgow Maryhill) (Lab): Thank you for your consideration, in respect of both the petition and my diary. I apologise on behalf on Andrew Watt, who is unable to be here today because of work commitments.

When I first heard about the situation that Mr Watt is in, I must admit that I did not quite believe it. It started in 1988 when—as members will have read—he was an eight-year-old boy and was mauled by a Rottweiler. The owner of the dog was tried at a criminal trial, which became time-barred. As a result of the tenacity of Andrew Watt's parents, they managed to take forward a private prosecution, which was successful. Compensation was awarded to Andrew for his injuries and payments by the owner of the dog have been made towards that compensation and the costs, which were awarded at the time of the case.

The payments, however, have been erratic and we have established that the capital sum that was awarded to Andrew Watt has been collected, but the costs and expenses have not. Until January, the Scottish Legal Aid Board had estimated that it was not able to pay any of the money to Andrew Watt, who is now a young man of 22. Through some heavy lobbying, we have managed to persuade it to release to Andrew Watt the interest that had accrued on the capital sum that it had held for him. That has been paid and gratefully received.

Members will also see in the notes that during the trial the sheriff recommended that £300 from the original compensation should be set aside to allow Andrew Watt to undergo a course of autogenic treatment. That would enable him to come to terms with his injuries, which were fairly severe and are noticeable to this day. It was impossible for Andrew to have that treatment because his parents could not pay for it and there is no money forthcoming from the Scottish Legal Aid Board.

Obviously, much time has passed since the attack and Mr Watt is asking the Public Petitions Committee to ask the appropriate committee of the Parliament—I hesitate to suggest which committee that should be—to examine the ways in which the Scottish Legal Aid Board collects money and especially how it disburses money in cases such as his.

Christine Grahame: I declare an interest as a practitioner of legal aid.

Do you know whether the solicitor's account has been rendered to the Scottish Legal Aid Board?

Patricia Ferguson: The solicitor's account is one of the reasons why the moneys are not being paid to Andrew Watt, because the total cost of paying his legal aid solicitor, along with other costs, has not been paid to the Scottish Legal Aid Board.

Christine Grahame: I accept that.

Are you aware that it is open to a solicitor to authorise release of part of the principal sum and to retain some to cover a pending account, which is, of course, the first priority of the Scottish Legal Aid Board?

Patricia Ferguson: The Scottish Legal Aid Board, which is collecting the money, has certainly not made that clear to the Watts. The Watts have not received such information from their own solicitor, either. They want the capital sum of compensation that was awarded to Andrew released to him. That money has been paid in full to the Scottish Legal Aid Board and those concerned have declared that and been honest about it, as one would expect.

Christine Grahame: The difficulty is that, under the legal aid rules, the payment of a solicitor's account—which is a taxed account—must be met first out of any expenses that are recovered and then out of any principal sum. That might be Parliament's responsibility as the funder of the Scottish Legal Aid Board. Perhaps the committee should write to the board for its comments on why no money has been paid out and to find out whether the solicitor has ever mandated the board to pay a sum. Could we do that?

The Convener: No.

Helen Eadie: Would not we be overstepping the mark?

Christine Grahame: I know what the problems are.

The Convener: As a committee, we cannot get involved with individual cases. I, like most members of the committee, am not qualified to comment on legal aid rules. The Justice and Home Affairs Committee is, but we know about the burden of work on that committee, so there is a

question about whether we should refer the petition to that committee for consideration.

We could write to the Minister for Justice and use this case as an example. We could ask whether the Government has any proposals for the amendment of legal aid rules to take into account the rights of victims.

Ms White: I am not a lawyer, so I will speak to Christine Grahame later, to ask her about all the different bits and pieces. It seems strange, however, that the money is there, but Andrew Watt cannot access it.

Christine Grahame: That is not strange.

Ms White: We should refer the case to the Minister for Justice. The matter is not just about a single case, although it is because of an individual case that the matter has come before us. It has far-reaching implications.

The Convener: It has been suggested that, although it is up to the Justice and Home Affairs Committee how it conducts its work programme, this is a matter that that committee should, perhaps, add to its programme.

Christine Grahame: The Justice and Home Affairs Committee will be looking at civil legal aid at some point down the line if it is not burdened with more work by the Executive.

The Convener: It will be useful if that is on the committee's agenda. We could send the petition to it for consideration in the context of consideration of civil legal aid.

Christine Grahame: Substantial changes in legal aid rules might be required for payment to be made. I realise, however, that a great injustice is being done to somebody.

Patricia Ferguson: The Watts and I understand that there is a Scottish Legal Aid Board rule that must be applied and that the rules are being applied as they should be. We have no problem with that, but the point is that we want the rule to be reviewed. It seems to us that the Scottish Legal Aid Board's responsibility is always to the law and lawyers. The victim comes a very poor second to that. We understand why that is, but we are using this case to highlight the fact that, in Andrew Watt's opinion, it should not happen.

16:30

Christine Grahame: You will agree that nobody receiving legal aid should be in a better position than somebody who is paying for legal services privately. Somebody paying for legal services privately who did not recover their expenses would have to pay the bill from whatever money they had. Legal aid rules operate on the same principle. That is why this is a complex issue.

The Convener: Yes, but if the Justice and Home Affairs Committee is reviewing civil legal aid, it would be in order to refer the petition to that committee for consideration.

The next petitioner is Mr John R D Stewart, who attended our previous meeting with a petition about treating farming aid in the same way as legal aid. He has already outlined his main concerns, but he is back to resubmit his petition in a different form, as we advised. I ask Mr Stewart to keep his remarks fairly brief.

Mr John R D Stewart: I will do that.

The petition that I have submitted is important, not because I have submitted it or because I want to denigrate the other petitions that have been submitted, which are clearly also important, but because of the principles that it relates to.

The first is fairness. If our system is seen to be unfair, disillusionment sets in and democracy begins to die a little. I believe that we are already an uncomfortable distance down that road. If we require disclosure of one man's subsidy—whether it be the modest grant awarded to an old-age pensioner to pay for his loft insulation, or a top-flight advocate's legal aid payment—we must require disclosure of all subsidies. To do otherwise is unfair.

The great strength of an active democracy is that it can bring to bear on its problems the full range of all its people's abilities. Dictatorships and other elite forms of government cannot do that, because they require the props and buttresses of secrecy to remain in power.

Farming has problems. I can put that no more vividly than does Mr Brian Pack, the chief executive officer of Aberdeen and Northern Marts group, who said that, in the worst-case scenario, little of Scottish agriculture would remain. His more optimistic statement was:

"However, I believe there will always be some farming in Scotland, but the industry is now in a very big hole, and it is very black. This year will see a large shakeout in our industry."

That is despite the fact that farming received, in round terms, half a billion pounds last year—or so we think; we do not actually know.

Scotland's 10 largest landowning charities, including the Royal Society for the Protection of Birds and the National Trust for Scotland, own more than 560,000 acres, including many farms, between them. How much subsidy did they receive last year in addition to concessions on income tax, value added tax and property tax? We have no idea.

More than 400,000 acres are owned by foreign nationals. How many farms does that comprise? How much subsidy did they receive? How much

stayed in Scotland? How much went in the farm office door and was remitted straight to Brussels, Liechtenstein, Germany or somewhere else in the world?

Three quarters of a million acres of Scotland are owned by persons completely unknown, operating through offshore companies. I find it a disturbing thought that the secrecy of our land ownership system, combined with the secrecy of our subsidy system, may be, for all we know, providing the perfect cover for criminals not only to launder their ill-gotten gains, but to make a profit from doing so. We simply do not know where our money is going. All cats may be grey in the night, but Scotland's fat cats are positively spectral.

Less dramatically, but nevertheless seriously, our villages, although they are surrounded by farms and estates into which we believe we have poured millions of pounds, are in decline. Again, we are ill informed. Until the destinations of those huge cash flows are known, we will not be able to bring to bear the talents of our people on the problems. Openness is essential if we are to put matters right.

My last point may seem something of a long stride away from agricultural subsidies, but I believe it to be the heart of the matter. Too much of our public money is controlled by unelected quangos. Too many of the policies and strategies affecting our lives are determined by self-appointed, self-designating and self-rewarding elites. Too much of our Europe-based legislation is determined by unelected and unassailable Commissioners. Too much of our agricultural support funding is flowing into the hands of yet another elite—an unknown elite.

There are those in farming who view the present process with satisfaction—who murmur smugly of the inevitability of 80 per cent of subsidy cash going to 20 per cent of farmers; of the inevitability, indeed, the desirability, of the creation of a publicly funded landed elite. It is, I suppose, possible, but it seems highly improbable, that they are unaware that the 80:20 relationship in economic affairs was the discovery of one Vilfredo Pareto, who provided to the fascist and Falangist movements of Europe the rationale that Nietzsche gave to national socialism. They all come from the same stable.

The Convener: There are farmers in this committee, I must warn you. They may take exception to that.

Mr Stewart: Yes, I expect that they will.

The Convener: Could you bring your remarks to a close? We are pushed for time.

Mr Stewart: I am about to do that.

Yes, the fascist movement made the trains in Italy run on time and, yes, 4,000 large farmers are

undoubtedly more cost-effective—by one definition of cost-effectiveness—than 50,000 small ones, but cost-effectiveness is merely the mask for one aspect of a process of neo-fascism, which must be stopped so that democracy can be reasserted.

For those reasons—fairness, openness and the assertion of democracy—I ask the committee to support the petition. Thank you.

The Convener: Are there any questions for Mr Stewart? If not, let us be absolutely clear. Mr Stewart, all that you are asking is that the rules for disclosure of public subsidy should be the same for the agriculture sector as they are for other sectors that are subsidised by public funds. Is that correct?

Mr Stewart: That is correct, convener.

The Convener: That is all that you are asking Parliament to do?

Mr Stewart: Yes.

The Convener: That is very straightforward.

Ms White: It is nice to see Mr Stewart again.

Mr Stewart: Thank you, ma'am.

Ms White: Until his last paragraph, I was going to get him to write a couple of speeches for me, but I do not know whether they would go down too well. To reiterate what John McAllion said, is it right that all you are looking for is fair play, accountability and transparency, which is only fair in a democracy?

Mr Stewart: Yes, ma'am. Once the information is available, people can begin to tackle the problem logically and sensibly.

The Convener: Thank you, Mr Stewart. The recommendation is that we pass the petition to the Rural Affairs Committee for further consideration, with the suggestion that it consults other subject committees as appropriate, including the European Committee, as there is a large element of European subsidy in farming.

John Scott: There is no huge mystery. There are 20,000 farmers in Scotland. As the gentleman said, there is £500 million. A quick calculation tells you that that is about £25,000 per farming unit. The subsidy depends totally on the size of the farming unit. There is an inference that because the information is not widely available there is a cover-up. That is not the case. The figures are widely available. The issue is not complicated. It is a matter of public record.

The Convener: We do not draw conclusions from any petition. The Rural Affairs Committee will consider that in good time.

Helen Eadie: Convener, would you consider adding to the recommendation that we ask the

Audit Commission to examine the issue? I met the commission last week to discuss another issue to do with transparency and consistency—you will be glad to hear that I will not bore you with the details. The commission said that it believed that rules should be consistent across the board, which is the point being made.

The Convener: When we pass the petition to the Rural Affairs Committee with the suggestion that it consults the European Committee, we can suggest that it also consult the Audit Commission to ensure that there is consistency. Is that agreed?

Members indicated agreement.

The Convener: The next petition is PE201, which is from Dundee Anti Poverty Forum on council tax benefit and the impact of the increase in water charges. Jim Milne and Davie Reid from the forum are here to answer questions. As the constituency member for Dundee East and a member of the Dundee Anti Poverty Forum, I must declare an interest. I ask that comments be kept brief. Jimmy, the floor is yours.

Jim Milne (Dundee Anti Poverty Forum): I thank the committee for giving us the opportunity to come along to make representations in support of the petition. The petition deals with the increase in water and sewage charges in the North of Scotland Water Authority area; it deals specifically with the investment programme necessary to provide the service and with people's ability to pay. My colleague will make one or two points about that. We will be reasonably brief.

In late February, the local press carried a report that the North of Scotland Water Authority was to increase water and sewage charges by a massive 35 per cent. It is fair to say that the report was met with dismay and a great deal of concern by the local community in Dundee and beyond and was the subject of a great deal of controversy in the press and on local radio talk shows. As an organisation that deals with the issues that affect people in poverty, the anti-poverty forum was very concerned and we felt that we had to take the matter forward. However, our concern turned to outrage when the increases were announced—46.4 per cent across all council tax bands.

I will put that into historical perspective. Since the reorganisation of water and sewage services in 1996, the charges covering the north and north-east of Scotland have risen by 5 per cent in 1996-97, by 40.4 per cent in 1997-98, by 30.8 per cent in 1998-99, and by 37.5 per cent in 1999-2000. Now there is to be an increase of 46.4 per cent. That shows that there has been a dramatic increase over the past five years. We think that, in 2000, people should expect a safe, clean, efficient and—more important—affordable water and sewage service.

16:45

We understand that what is necessary to provide that and to meet stringent EC anti-pollution regulations is a massive investment programme, which will cost more than £500 million. We believe that it is scandalous that the only mechanism that is available to NOSWA to pay for that investment programme is to levy costs from their customers. The public are paying for years of neglect and underinvestment. Representatives of our forum met the chairman of NOSWA some time ago to express our concerns. He highlighted the fact that much of the present system was built more than 140 years ago, in Victorian times. He accused us of frightening people with percentages—a criticism that we had to accept because in fact the percentages were frightening. We understand that tackling the problem is no easy task. We ask the committee to investigate other options for funding the investment programme that is needed to bring the water and sewerage infrastructure up to date.

Although our organisation's main focus is to deal with people in poverty, it is clear from the broad support that the petition has received that the general public are less than happy with what is happening. The petition has been signed by people as far afield as Inverness, Peterhead, Elgin, Angus and Aberdeen. We were also told by the NOSWA chair that the investment programme will continue until 2007, so the massive increases that there have been over the past five years are set to continue. We believe that there is a strong case for the committee's intervention.

Davie Reid (Dundee Anti Poverty Forum): I am the vice-chairman of Dundee Anti Poverty Forum. Representatives of the forum wish to make a plea on behalf of low-income households, which are hardest hit by charges for water and sewage services. Some of the worst-off households are single-parent households. Dundee has 50 per cent more single parents than the Scottish average. Pensioners, too, are among the worst-off households, as many of them live on benefits or have only a modest income. The £15 increase in the cold weather payment that was announced in the budget is immediately lost in the NOSWA area because of the requirement to pay—in band A—an additional £62.60 in water charges this year. Families who live on income support or who earn low wages are having to meet the increase in full, as there is no rebate system.

People who are already poor will sink further into the poverty trap as they attempt to meet those charges. People who have a total income of less than £55 per week are being forced to shell out between 4 per cent and 8 per cent of their disposable income. Those charges are unfair. It is unacceptable that poor households should have to

bear a vastly disproportionate burden.

We ask the Parliament to acknowledge that the present system is unjust and that we should have a structure that takes into account people's ability to pay. We suggest that linking water and sewage charges with the council tax rebate system would be a simple and effective way of doing that. We realise that you do not have the power to change the benefit system, but you can discuss the matter and use your considerable influence to advocate the changes that we propose.

Christine Grahame: I have taken the opportunity to look out a question that I asked the minister. On 11 May, I asked whether the Executive

"intends to introduce a water service charges benefit scheme aligned to the existing Council Tax Benefit Scheme."

Sarah Boyack's answer is a bit fluffy to start with, but concludes:

"Nevertheless, we recognise that affordability of water charges is an issue. That is why we are looking again at current arrangements. We shall consult widely on this before implementing any changes."—[*Official Report, Written Answers*, 11 May 2000; Vol 6, p 133.]

Do you wish us to write to Ms Boyack, as she has already put this down in an answer, asking her to take on board the petition, which is making the same point as Borders pensioners and others throughout Scotland have made?

Davie Reid: Yes.

The Convener: She has already said that she will do something.

Davie Reid: We were not aware that she had said that.

Christine Grahame: That is why I told you.

The Convener: It is also important to make the point that it will be necessary for this Parliament to argue that the Westminster Parliament should change the benefits system. It would be wrong for the people in the north of Scotland to have to subsidise one another. This is a national issue about affordability; it should not be settled locally through NOSWA. Would you accept that?

Davie Reid: Yes.

The Convener: Thank you very much, Davie.

Members may remember that we dealt with a similar petition, from an individual, which we sent directly to NOSWA. It sent back a letter, which is attached to the papers that have been circulated.

However, this petition is different, as the forum asks for alternative methods of investment in water that would bring down the cost of the investment for local users. It also asks the Parliament to consider some system of

affordability. In that respect, I think that we should agree with the suggestion that we send the petition to the Transport and the Environment Committee for its further consideration and ask it to consult the Local Government Committee, which has a role in this matter as well.

Helen Eadie: Today, at the Transport and the Environment Committee meeting, we agreed that this subject would take a high priority in our work programme. If my memory serves me correctly, we will deal with it before the summer. The petitioners may want to get in touch with the committee clerk to seek to give evidence to that committee.

The Convener: If we refer the petition to the Transport and the Environment Committee and ask it to consider it within its work programme, that would mean that the issue would be considered before the summer. That is excellent.

Christine Grahame: I was of a mind to ask you to get back to Ms Boyack, following her answer to me, requesting that she consult the petitioners.

The Convener: We could send the petition to Ms Boyack for her information, saying that we had also referred it to the Transport and the Environment Committee, which is considering this matter. Is that agreed?

Members indicated agreement.

The Convener: The petition that we will deal with next is not PE190, because there is no speaker on that; the final speaker is on petition PE191, so we will deal with that next.

Margaret Smith is here to speak on behalf of the petition, which is from various health care workers, about the presence of police at the accident and emergency unit at Glasgow royal infirmary.

Margaret Smith: At times, I will read directly from some prepared notes, so that I truly represent my colleagues. I am not speaking solely for myself.

For many years, the staff at Glasgow royal infirmary's accident and emergency department have been subjected to a high level of psychological and physical abuse from the general public who use the service. Those incidents have been reported to the powers that be with very little feedback or satisfactory solutions. Due to the lack of understanding or positive action from the trust, the staff within the department have reached breaking point. I ask the Public Petitions Committee to intervene on their behalf.

I will make some points to support our case. Over the years the trust has carried out paper exercises each time an incident has been brought to its attention. Those have all been cost-saving measures as far as we can see, which gives us an

impression of how the trust values us.

The trust employed security people recently and was unaware that they were not in place in the department. It came as quite a shock to them when they realised that they were paying for a non-existent security system. The security people themselves, through no fault of their own, received the training that is afforded to security staff in department stores. They are not allowed to restrain; they frequently call on nursing staff to intervene to move or remove people. We have no faith in them at all. The security staff should be there to prevent people entering restricted clinical areas, but in those instances they call on nursing staff. We are constantly called away from the job that we should be doing to deal with matters that we believe should be in the hands of the security staff.

The company involved is Sodexho, which covers portering, catering and domestic services in the hospital. A recent discussion with a trust member revealed that the trust was unaware that security staff had not been there all the time, although they had been told that they should be. Although alternatives were suggested, staff were told that the trust was looking for the least expensive way of dealing with security, such as code key pads in doorways. Restricting access to the clinical area would be an advantage, given the violence and aggression that our staff face, but it only shifts the problem elsewhere.

We are requesting a 24-hour police presence. In the past, we had nothing at all, now we have the current security system, but we had a permanent police presence over the millennium, on hogmanay and on 1 and 2 January. The difference working under those conditions was incredible. Staff are suffering and we cannot provide a safe environment for patients and relatives. The nature of the people who come through the department adds greatly to the problem.

A number of staff have been injured and they frequently have to appear in court to give evidence. We have been filling in incident forms for many years, but we never get any feedback on them. Recently, we heard that there were 97 violent incidents over the whole area of Glasgow royal infirmary. There were 94 violent incidents in the accident and emergency department. We have an awful lot to deal with. It is a stressful job. We are a highly trained and highly effective work force, if we are allowed to do our job. Far too much time is lost placating aggressive, nasty people and it is taking our time and expertise away from the people who really need us.

I do not say that lightly. Over the years, we have tried all the official avenues. Recently, we made direct contact with the chief executive, but her response was that overt security often

exacerbates the situation. That is why we have brought our petition to you today.

The Convener: Thank you. Obviously, you can speak only for Glasgow royal infirmary, but do you think that this is a general problem for accident and emergency centres across Scotland?

Margaret Smith: It is a social problem.

The Convener: It is not confined only to Glasgow?

Margaret Smith: No. I do not believe so. We have tried everything else and we believe that the only answer is a 24-hour police presence. We have experienced the difference that having a police presence in the department can make.

The Convener: You mentioned that Sodexho had the contract for portering and catering. Did it employ the security people?

Margaret Smith: As far as I know, yes.

The Convener: So the security was contracted out.

Margaret Smith: Yes. The estate manager told me that he was not aware that they were not where they should be.

John Scott: You said that there were 97 incidents, but you did not specify the period over which they occurred.

Margaret Smith: I do not know.

John Scott: Are we talking about a couple of months or a year?

Margaret Smith: I believe that the incidents took place over a matter of weeks.

17:00

Ms White: Hello, Irene, I am Sandra White, a Glasgow MSP.

Margaret Smith: My name is Margaret Smith.

Ms White: I am so sorry. I am familiar with Glasgow royal infirmary, although I do not visit the accident and emergency department very often. However, last year I was there with one of my relatives, and it was chaotic. People were lying on trolleys and there were drunks and drug addicts about. You mentioned the layout of the department. Do you think that if the layout were improved, that would enhance security in a small way?

Margaret Smith: It certainly would, especially if there were no more than two people in attendance on any patient. We tend to get groups of six, seven or eight people hanging round each patient and blocking the corridors. Removing most of those people from the clinical area would be extremely helpful. It would move any violent

incidents into another area.

Ms White: As you say, there are many places that people can get into—they can get into cubicles where patients are lying—and that is something we need to deal with. My next question, which you have already answered, was going to be about the powers of security guards. Obviously, they do not have any statutory powers of arrest—they are there just to supervise and to make people feel secure.

Margaret Smith: They have gone to nurses working in the resuscitation rooms with critically ill patients and asked them to come outside to speak to someone. The main problem is that staff have no faith in them. We need to be working in an area where we feel safe.

Ms White: I believe that one security guard was taken off to become a cook in the kitchens.

Margaret Smith: That is the least expensive option.

John Scott: How many police would it take to cover the infirmary?

Margaret Smith: I would like at least one police officer to be visibly present. There are community police in Glasgow royal infirmary, but they are based at the opposite end of the hospital from A and E. They use voice mail, which is of little use to us if we need an instant response.

Christine Grahame: You said that there were 97 incidents, of which 94 took place in accident and emergency. Over what period did those incidents take place?

Margaret Smith: I do not know.

Christine Grahame: My next question may have been asked in my absence, which was due to other parliamentary business. I apologise for that. The chief executive said that the presence of overt security or police can exacerbate the situation. Do you agree?

Margaret Smith: She said that there is a school of thought that maintains that.

Christine Grahame: Do you agree?

Margaret Smith: No. I have experienced the so-called security that we have in place and police being in attendance consistently, and there is no comparison between the two. We know what works and why.

Christine Grahame: How long is your experience of accident and emergency?

Margaret Smith: I have been at Glasgow royal infirmary's accident and emergency department for seven years.

Christine Grahame: That is very interesting.

The Convener: Would the 24-hour police presence that you request have to be 24 hours a day, seven days a week, or are there peak periods when you would need policing?

Margaret Smith: We have tried that, but there is no saying when an incident will flare up.

The Convener: So there is no pattern. Are incidents not more common on Friday and Saturday nights?

Margaret Smith: There tend to be more incidents then.

The Convener: But they can happen any time.

Margaret Smith: There is no saying when an incident will occur. Staff have been seriously injured. Four members of staff have been off on long-term sick leave with stress-related illness. I do not think that people appreciate what it is like to have very aggressive, vicious people in your face over a long shift. It is a problem that can so easily be removed, to provide a safer environment for the staff, patients and relatives.

The Convener: Thanks very much. We will now move on to consideration of your petition.

The suggested action is that we pass this petition to the Health and Community Care Committee for further consideration, on the grounds that it is a national problem. I do not know whether the committee feels that it would be worth while for it to deal with the Glasgow NHS trust first.

Christine Grahame: It might be worth getting the trust's view on what the position was and will be.

John Scott: This is a national issue. In Ayr hospital, for instance, police are present at peak periods because the staff could not survive without them. It is a huge problem, and should be referred to the Justice and Home Affairs Committee.

The Convener: That committee is responsible for the police.

John Scott: If this committee cannot refer matters to that committee because it is overburdened, the whole system is collapsing.

Christine Grahame: I suggest that it is up to the convener to say to the Parliamentary Bureau, or whoever is in charge of the agendas of committees, that that is a problem that will arise constantly in matters relating to justice. How are we to give this matter serious attention, if policing is shoved down the agenda? That is not the fault of the Justice and Home Affairs Committee.

The Convener: We know that the Parliamentary Bureau is considering ways in which it can facilitate a greater work load for the Justice and Home Affairs Committee. At the moment, that

committee cannot cope with its work load, and moves are afoot to address that situation.

The Health and Community Care Committee has expressed an interest in passing comment on this petition, so perhaps we should pass it on to that committee. When we receive its comments on the petition, we can then give further consideration to it. I would like to establish whether this is a national problem, not one that is based on our own anecdotal experience.

Helen Eadie: Yes. That is reasonable. I would support the view that we pass this to the Health and Community Care Committee in the first instance, as there is a degree of urgency about this. People's lives are being threatened.

The Convener: Would it be worth our while to write to the Glasgow trust to ask for its opinions?

Ms White: We could take a two-pronged approach, by sending this petition to Glasgow and also consulting the Health and Community Care Committee on the national problem.

John Scott: How many NHS trusts are there in Scotland? Are there lots? I do not know.

The Convener: Twenty-something. There were 47, but the number was reduced.

John Scott: Would it be outwith our remit to ask them if they have a view on the matter?

Christine Grahame: That would be within the Health and Community Care Committee's remit. However, specific allegations have been made about incidents in Glasgow.

The Convener: The suggestion is that we pass this petition to the Health and Community Care Committee, asking it to respond to us, giving us its view on whether this is a national problem. We can also write to the NHS trust in Glasgow, asking it to tell us in writing what it intends to do. We can then consider the matter further.

Helen Eadie: Might we want to invite representatives of the trust to come to one of our meetings?

Ms White: They are very busy people just now, reorganising the whole of health care in Glasgow.

John Scott: There is no point in writing to the Glasgow police about this, is there?

The Convener: It is still Strathclyde police, I think. We ought to establish the contours of the problem first.

Helen Eadie: I know that this is not procedurally correct, but Margaret Smith would like to make a comment.

The Convener: Please come back to the table.

Margaret Smith: If the petition is passed on to

Greater Glasgow Health Board, the North Glasgow University Hospitals NHS Trust, or whoever, I ask that you stress the need to avoid making this just another paper exercise with no end result. We do not want to wait six months for an outcome.

The Convener: No. This committee tries to ensure that progress is made on petitions. Now that we have taken charge of the matter, we will try to ensure that a response is received.

Margaret Smith: I have informed the chief executive of the trust that, if anything should happen to me or my colleagues in the meantime, the trust will be held fully responsible.

The Convener: That is now on public record.

Is the committee agreed on the proposed action?

Members indicated agreement.

The Convener: We now move to discussion of other petitions, which do not have representatives to speak about them but which should be treated with the same seriousness.

The next petition is PE190, from Peter Saunders; it concerns a planning application for John Woods hospital, and calls for the Parliament to halt the work that is in progress at the hospital as a result of that planning application. Technically, the petition is inadmissible as it calls for the Parliament to do something that it does not have the power to do. However, the petitioner is concerned that Fife Council planning department has provided misleading information to the local development committee during the planning process. For that reason, it is suggested that we could pass the petition directly to the Scottish Executive planning division, with the request that it investigate the petitioner's concerns.

An alternative would be for the clerk to write to the petitioner to request further details of his concerns. One of the problems with the petition is that it does not specify what Fife Council planning department has done wrong. If we ask the planning division to investigate the matter, it would probably have to write to the petitioner anyway, to ask what exactly he was referring to. Should we write to the petitioner first, to ask him for more details?

Christine Grahame: Yes. We should also advise him that we intend to remit the petition to the Executive department.

Members indicated agreement.

The Convener: The next petition is PE192 from Alex Doherty, about the Mental Welfare Commission. The petition asks the Scottish Parliament to order the commission to regard all its records as health records and to comply with

access requirements. Members have received a briefing from the Scottish Parliament information centre on this; parts of the briefing have been highlighted. On the first page, there is a quote from a written answer of 17 August 1999 in which Susan Deacon said that

"care records of the Mental Welfare Commission do not fall within the definition of 'health records'"

as contained in the regulations. However, in proposals for the freedom of information bill, it is being considered whether the records of groups such as the Mental Welfare Commission should be included, to allow people access to those records.

It is suggested that we pass the petition, along with the background papers, to the Health and Community Care Committee, and that we draw its attention to the work that is going on.

Christine Grahame: Heaven forbid that I mention the Justice and Home Affairs Committee, but we are considering the freedom of information bill, and it might be useful for us to note the contents of the petition. The Health and Community Care Committee would be the lead committee. This is a serious issue.

Ms White: Will we inform Mr Doherty of our action?

The Convener: Yes, we will keep him informed. We will pass the petition to the Health and Community Care Committee, and to the Justice and Home Affairs Committee for it to note.

Members indicated agreement.

The Convener: The next petition is PE198 from Donside Community Council. It requests the Executive to investigate the causes of the current shortfall in funding for Aberdeenshire Council. We have already had a petition on this topic; we passed it to the Local Government Committee, which passed it to the Scottish Executive. When the committee received the Executive's reply, it decided to note the petition but to take no further action. Given that the Local Government Committee has already done the background work, I think that we should send this petition to that committee.

Christine Grahame: The petition raises an issue about the way in which funds have been used. Paragraph 2 says:

"We understand that the shortfall is in part due to reduced funding . . . and in part due to Aberdeenshire Council's inability to handle its financial affairs in a prudent manner."

I am not sure whether that is an allegation of mishandling of finances, or whether it simply suggests that the council is not making proper judgments. I do not know whether this is a matter

for the ombudsman.

The Convener: The Local Government Committee has considered the funding of Aberdeenshire Council, so it will be in a better position than us to respond to the petition. If members agree, we can inform the petitioner that the petition has been referred to the Local Government Committee, but also inform him that he has the right to go to the ombudsman if he believes that there has been malpractice.

Members indicated agreement.

Christine Grahame: Yes. I think that we should get more stuff off to the ombudsman.

The Convener: The next petition is PE199 from Scotland's Tomatoes Ltd. It calls for the Scottish Parliament to try to obtain a commitment from all supermarket retailers trading in Scotland that they will guarantee to stock Scottish produce that meets their quality standards in their Scottish stores. The petition, as you might expect, relates especially to tomatoes.

The Parliament, obviously, does not have the power to force any supermarket or retailer to do what the petitioners ask. However, it has been suggested that the petition could be passed to the Enterprise and Lifelong Learning Committee for further consideration, with the suggestion that it consult the Rural Affairs Committee as appropriate. Those committees may be interested in the issue.

17:15

Christine Grahame: I have exercised enterprise and lodged a motion, because if Scottish supermarkets do not support Scottish produce, that is a serious matter. I know that the Scottish tomato industry is in crisis.

I am afraid that I have taken that action anyway. I have had a parliamentary reaction to the situation and lodged a motion, which I hope members will sign.

The Convener: That does not preclude us from sending the petition to the Enterprise and Lifelong Learning Committee.

Christine Grahame: No.

The Convener: Is that agreed?

Members indicated agreement.

The Convener: The next petition is PE201 from Mr Edwards and is about the Electoral Reform Society. He calls on the Scottish Parliament to agree that the Electoral Reform Society has shown a lack of independence and impartiality by not accepting a commission to carry out a poll of the people of Scotland on section 28. The Electoral Reform Society is an independent body

and, as such, it is entitled to whatever view it wishes to take when accepting, or not accepting, commissions. Also, it is not for the Parliament to instruct the Executive on whom it might commission for such work. It is suggested that the clerk writes to the petitioner on those lines and that no further action be taken. Is that agreed?

Members *indicated agreement.*

The Convener: The next petition is PE202 from Mrs Mason and is about refuse collection. She calls on the Scottish Parliament to force East Ayrshire Council to improve the refuse collection service to her house. Members will see that she has taken up the matter with the council, the ombudsman and one of her local MSPs, Alex Neil. All are agreed that no further action can be taken in pursuit of her problem. We should write back to her to inform her that the Parliament is unable to become involved, as it is entirely a matter for the local authority.

Christine Grahame: I wondered how old Mrs Mason is—she is a very doughty fighter and has left no stone unturned over a wheelie bin.

The Convener: The final petition is PE203, which is about the Victoria infirmary; it has 12,000 signatures. The petition calls on the Parliament to call for a new hospital to serve the people of south Glasgow and surrounding areas, with the services that are provided at the Victoria infirmary being maintained in the meantime.

The petition was submitted previously to Greater Glasgow Health Board, which is responsible for that area, but the petitioners are concerned that the health board ignored the petition. It is suggested that we pass the petition to the Health and Community Care Committee for consideration.

Ms White: I have attended a number of meetings, not with the Friends of the Victoria Infirmary but with the Greater Glasgow Health Board, Mr Spry and Professor Hamblen and so on. The representatives of the south side of the city, such as John Young and others, are pushing for a new infirmary, and I know that Greater Glasgow Health Board has extended the consultation period.

All I can advise the Friends of the Victoria Infirmary is that we could send a copy of the petition to the Glasgow list and constituency MSPs, in case they have yet to see it. I know that the Friends of the Victoria Infirmary speaks up for the infirmary—everyone says that a new hospital should be built, but because of the rationalisation that is taking place in Glasgow, no one really knows what will happen. As I said, I advise that we send a copy of the petition to the relevant MSPs

The Convener: The relevant MSPs being—

Ms White: All Glasgow MSPs.

Christine Grahame: Why not just e-mail them to tell them that they can find out about the petition on the website?

The Convener: Okay; that is agreed. We will also send the petition to the Health and Community Care Committee.

Members *indicated agreement.*

Christine Grahame: May I be excused? I have another meeting to attend.

The Convener: Absolutely. Are we still quorate? It appears that we are—just.

Current Petitions

The Convener: We move quickly to current petitions. Members will see from the additional papers that we have received a response from Helen Liddell, the Minister for Energy and Competitiveness in Europe, to PE121 from Mr Frank Harvey. That response adequately addresses the points that were raised by the petitioner. It is suggested that we simply copy that letter to the petitioner and that no further action be taken. Is that agreed?

Members indicated agreement.

The Convener: The next additional paper is from Fife Acute Hospitals NHS Trust, in response to petition PE149. Helen Eadie will know more about the situation. The response sets out the trust's position in relation to the points that were raised in several petitions that we have passed to it recently, and goes into some detail about the reasons for the introduction of charges and the consultation that the trust has carried out. The response refers to the reduced annual charge of £60, which will be available to all staff, regardless of grade; it also sets out proposals for limited free parking on all sites, on a first-come, first-served basis, and for the development of plans for additional free spaces. The trust believes that it has complied fully with the NHS management executive guidelines on car parking charges—the response is similar to that which we received from West Lothian Healthcare NHS Trust, as members will recall.

Now that we have received responses from both trusts, it is suggested that we copy the petitions and responses to the Minister for Health and Community Care for comment, and that the minister be asked to consider whether the steps taken by the trusts conform with the management executive's guidelines. We could express to her the committee's concerns about the trend in petitions on this topic.

Helen Eadie: I suppose I should declare an interest, as the Fife Acute Hospitals NHS Trust also serves my constituency.

I agree with your proposal, convener. I am concerned that the statement that is set out in the letter does not reflect my experiences, or those of people in my constituency. I have written to Mr Connachan, who is the chief executive of Fife Acute Hospitals NHS Trust, and asked for a meeting with him to discuss the issues. The points that are made about consultation in the letter do not match the experience of people in the community.

The Convener: They certainly do not match the evidence that was given to us by the petitioners;

that is why we should send the papers to Susan Deacon.

Ms White: It is a worrying trend.

Helen Eadie: We should amend the Transport (Scotland) Bill if it contains a provision that under no circumstances should there be car parking charges at hospitals across Scotland. That may be controversial, but—

The Convener: It is controversial; you would certainly cause a stir if you were to do that.

Is it agreed that we should refer the petitions and responses to the minister, and that, in asking for her comments, we should express our concern about the trend that appears to be emerging across Scotland on this issue?

Members indicated agreement.

The Convener: The final additional paper is from Mr Russ McLean. It is a response to a request from the Public Petitions Committee for additional information on the urgency of the action requested in his petition on the Campbeltown to Ballycastle ferry link. A response from the minister responsible is awaited. It is suggested that Mr McLean's letter should be passed to the Transport and the Environment Committee and the Rural Affairs Committee for their information—they are handling the petition, which we sent to them. The information from Mr McLean is additional and supports petitions that we have dealt with already.

Is that agreed?

Members indicated agreement.

Convener's Report

The Convener: I do not think I have anything to report, other than that we can form a rota for the Nelson Mandela figurine.

Meeting closed at 17:21.

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