

PUBLIC PETITIONS COMMITTEE

Tuesday 24 October 2000
(*Afternoon*)

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PUBLIC PETITIONS COMMITTEE

15th 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 ALSO ATTENDED:

Mrs Isobel Brydie

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

Linda Fabiani (Central Scotland) (SNP)

Robin Harper (Lothians) (Green)

Ms Anne Macdonald (Kirkcaldy Area Abuse Survivors Project)

Geraldine MacDonald (Scottish Organisation Relating to the Retention of Organs)

Mr Jim McKinnon (Scottish Organisation Relating to the Retention of Organs)

Ray Nixon (Scottish Allotments and Gardens Society)

Mary Scanlon (Highlands and Islands) (Con)

Judy Wilkinson (Scottish Allotments and Gardens Society)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Jane Sutherland

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 24 October 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:07*]

New Petitions

The Convener (Mr John McAllion): I welcome everyone to the 15th meeting this year of the Public Petitions Committee. I also welcome members back after the recess and hope that it was as good as it could have been, given the dramatic and tragic events of that period. I hope that if members are not rested after the two-week break, they are at least determined that we should get on with the work of the committee as best we can.

I give a special welcome to our MSP colleagues, Linda Fabiani and Robin Harper. My mind went blank then—I was in Westminster yesterday trying to vote for the speaker, so I am not at my sharpest this afternoon.

We have a busy schedule ahead of us. There are 12 new petitions, and four petitioners who wish to speak. We must also deal with some detailed responses to previous petitions.

The first petition is from Anne Macdonald, on behalf of the Kirkcaldy area abuse survivors project. The petition urges the Scottish Executive to recognise the requirement for a central fund, to allow the establishment of a network of agencies to provide national support to adult survivors of childhood sexual abuse and to offer security of funding to existing services.

The petitioner will speak in support of the petition. Welcome to the committee, Anne. I should explain that the committee agreed a new procedure at a recent meeting. Petitioners are given three minutes to address the committee. After two and a half minutes, I will indicate to you that there are 30 seconds to go. You will wind up and committee members will ask you questions.

Ms Anne Macdonald (Kirkcaldy Area Abuse Survivors Project): Thank you for having me here today. Kirkcaldy Area Abuse Survivors Project—KAASP—was established in 1995. We are a group of former health and social care workers who are also qualified counsellors, working primarily with adult male and female survivors of childhood sexual abuse.

Recent figures produced by the Scottish Children's Reporters Administration reveal that 6,000 under-16s were sexually abused over the past three years. The report also highlighted that many victims who are now adults talk about the efforts that they made when they were children to get people to listen to them, to no avail. Among the 500 new clients that KAASP saw last year, none of the cases of childhood sexual abuse was investigated by child protection agencies at the time. It is a stark fact that child protection figures, on their own, represent only the tip of the iceberg as far as the extent and prevalence of the sexual abuse of children is concerned.

It is crucial that we recognise that adult survivors were children when the sexual abuse took place, that this issue is for society as a whole, and that criminal sexual acts have been perpetrated against the most vulnerable section of our community. We believe that a national strategy to address the social, health and legal implications of childhood sexual abuse requires to be implemented. We recognise the long-term consequences and links with drug, alcohol and substance abuse, mental health problems, homelessness, domestic violence and suicide.

The help that is currently available is not enough, and fails to meet the needs of survivors. *[Interruption.]* Did that beeping noise signify that I have had two and a half minutes?

The Convener: No, it was a mistake.

Ms Macdonald: We believe that a range of specialist services and care pathways is required, in addition to recognition of the effects that criminal sexual acts have had on survivors. Through that, we could change the climate of fear and shame and the public myths about the whole subject of childhood sexual abuse. That would benefit survivors and send a clear message to perpetrators that they can no longer hide behind the silence of their victims.

As far as funding is concerned, local authorities used to be held to ransom every year by the constraints of their budgets. If it were not for a national lottery grant, our project and others like it throughout Scotland would not be running. We are a respected organisation, and are used by health and social care professionals, who admit that we provide an absolutely essential service that they cannot provide. There needs to be a choice for survivors through core-funded services for this particular client group, as mentioned in the petition. *[Interruption.]*

The Convener: That was the signal for thirty seconds. Have you finished?

Ms Macdonald: Yes.

The Convener: I apologise—apparently the

earlier sound was due to the batteries running low in our timer, which was playing up.

Ms Macdonald: It threw me a bit.

The Convener: Thank you very much for the presentation. Members of the committee may now ask questions.

Christine Grahame (South of Scotland) (SNP): Thank you for that comprehensive introduction. The project was established in 1995: are there similar projects elsewhere?

Ms Macdonald: Yes, there are approximately 25 such projects throughout Scotland. Their sizes differ from that of KAASP. We have those projects' backing for our petition, and their representatives have signed it.

Christine Grahame: Do you act in a co-ordinated fashion, or do you act fairly independently and simply liaise with each other?

Ms Macdonald: We have an umbrella group, in which we meet regularly, but because of financial and geographical constraints, we cannot always meet up as often as we would like.

Christine Grahame: What is your status? Is the group a registered charity?

Ms Macdonald: Yes.

Christine Grahame: What funding do you have in the current financial year from the local authority?

Ms Macdonald: We have £22,500 from Fife Council.

Christine Grahame: And what do you get from the lottery?

Ms Macdonald: We get £65,000. Those two sums make up our overall budget.

Christine Grahame: Just for this one year?

Ms Macdonald: Yes.

John Scott (Ayr) (Con): What do you think is the scale of the problem?

Ms Macdonald: The current statistics say that one in three girls and one in five boys have experienced some form of sexual abuse by the time they reach the age of 18. The abuse ranges from flashing and inappropriate touch to full rape and assault.

The Convener: Is the funding from the national lottery for three years?

Ms Macdonald: Yes.

The Convener: Is this the first year?

Ms Macdonald: We have just ended our first year.

The Convener: So you have two years of that funding left?

Ms Macdonald: Yes, we have two years to run.

The Convener: I assume that the funding from Fife Council is not guaranteed.

Ms Macdonald: No, it is not guaranteed. Like many voluntary organisations, we had been on urban programme funding. When that ended, the local authority was recommended to provide funding, but it said that its budget could not meet the needs of the project, although it valued the service. We believe, as do the other similar organisations and statutory organisations that work with survivors, that there must be secure funding for our group, as we are slowly becoming aware of the mammoth scale of sexual abuse. That is why we are also appealing for a national strategy to unpack the whole issue, and why we implore the Scottish Parliament to take a lead. Scotland has a golden opportunity to take a lead in having a pragmatic debate on this issue and on how we deal with the long-term consequences of sexual assaults on children.

The Convener: Did this year's £22,500 from Fife Council represent a cut on previous years?

Ms Macdonald: Yes. Our work was done through a programme that was administered by the council. We were then on a £72,000 annual budget, but, obviously, costs increase.

The Convener: Has any direct approach been made to the Scottish Executive?

Ms Macdonald: The only approach has been through the petition. We have had meeting after meeting with the local authority.

Ms Sandra White (Glasgow) (SNP): I have two questions. We have all noticed the increasing number of press reports about sexual abuse survivors. As those reports have become more prevalent, have more people approached you, and can you give us an idea of the number?

14:15

Ms Macdonald: Every time that there is press coverage, we receive more calls for our support. We have 1,500 clients, and ours is only a small project in Fife. There are other similar projects, for example in Falkirk.

As is done in the Lothians, in Fife we now support people who were sexually abused while in care homes in the 1950s and 1960s. That has proven to have an impact on our project, for which the council says that its £22,500 provides funds. We want to support those people, but we need to examine secure core funding, because the problem is long lasting. We have clients who are 60 years old and are speaking to us for the first

time, because there is a climate of change. We should roll the issue forward in the Parliament.

Ms White: My second question is about core funding. I hope that your organisation will receive decent funding from the council. If that happens, would you like that money to be ring-fenced for the purpose that you described?

Ms Macdonald: Yes.

Christine Grahame: You talked about statutory bodies that provide similar services. Who assesses the success or otherwise of your project? How are you supervised?

Ms Macdonald: We work with the British Association for Counselling, which is a recognised body. We are all qualified counsellors. It is mandatory that we are insured and that our practice is supervised externally by accredited practitioners. As with psychiatry and psychology, it is difficult to monitor the outcomes, which statisticians call soft outcomes. We receive internal evaluations from the survivors who use the project and the professionals such as general practitioners and psychiatrists who make referrals to us. For our funding, it is mandatory to have annual external evaluations, but we see that as good practice. They are conducted by an agency that is recognised as an authority on external evaluations in the voluntary sector.

Christine Grahame: I asked about that because it is useful to have that information in the *Official Report*.

The Convener: I thank Anne Macdonald for her evidence. We will now consider the petition.

The petition is quite big, containing 1,100 signatures from just one area of Scotland. As Anne Macdonald said, there are 25 such projects across the country. The petition calls for a national strategy, the establishment of a network of the existing services and secure funding for the existing services and to fill in gaps. The matter is for the Scottish Executive, so it is important that we find out what it has to say about the petition, before we consider what to do. Is that agreed?

Helen Eadie (Dunfermline East) (Lab): I did not ask any questions, because I have joined the cross-party group on survivors of childhood sexual abuse. I agree with you, convener—it is important to try to obtain information on the strategy. The number of people coming forward with information is growing, so it is imperative that we have in place the support systems, such as those provided by Anne Macdonald and others. *[Interruption.]* Was that beeping giving me 30 seconds? I know about the problems because a lady in my constituency who needed such support approached me. Fergus Ewing has also done some related work. There is a need to consider the support agency and the

legislation on compensation; some victims have argued for retrospective compensation.

Christine Grahame: It would be useful if the additional information that Anne Macdonald provided about other organisations, and other matters such as how the organisations are reviewed, was handed to the Executive. I say that now so that the petitioner hears the proposal. Do we have all the papers that were submitted?

Steve Farrell (Clerk): Yes.

Christine Grahame: If we send the petition to the Executive, the additional background information will be quite useful.

The Convener: We will definitely include that information. Is it agreed that we send the petition to the Executive and, when we receive its response, consider further how to dispose of the petition?

Members indicated agreement.

The Convener: Petition PE280 is from Judy Wilkinson, on behalf of the Scottish Allotments and Gardens Society. It calls for the Scottish Parliament to recognise the importance and popularity of allotments, and to establish an allotments working group that would protect and promote allotment provision in Scotland. The petitioners, Judy Wilkinson, Ray Nixon and Eddie Docherty, will speak in support of the petition. Since submission, a further 146 signatures have been received in support of the petition, which takes the total number of signatures to 646. Robin Harper, too, will speak in support of the petition.

I welcome the petitioners to the committee. The rules that apply for all the other petitioners apply for you, too. You have three minutes to present your petition. If the timer works, after two and a half minutes, I will let you know that you have 30 seconds left.

Judy Wilkinson (Scottish Allotments and Gardens Society): You have received our petition and an additional information paper, which lists the committees that may have an interest in allotments and outlines the reasons why they may have such an interest. Today, I want to deal with just one issue: social inclusion. In urban areas—Glasgow, Edinburgh, Aberdeen and Dundee—and in rural housing developments, many people have no opportunity to grow their own food.

A significant percentage of the population likes to garden. There are many garden centres, which are profitable and whose number is growing. However, the fact that few people in housing developments have the opportunity to share in this activity and to tend a plot of land is an issue of social exclusion.

I received a letter from a woman who lives with

her four-year-old autistic child in a 14-storey block of flats.

Ray Nixon (Scottish Allotments and Gardens Society): She wrote to say that looking after her child is physically and mentally exhausting, that an allotment would be an ideal stress and tension reliever, and that it would be extremely beneficial because her daughter does not eat meat. She said that they find buying vegetables a chore, whereas, with a little time and effort, they could cultivate a plot and grow some of their own.

Judy Wilkinson: Unfortunately, of the two sites near her, one has a three-year waiting list and the other is under threat of development. We ask you to set up a working party to consider how allotments can be preserved and promoted, because we think that they are of great value to the community.

Ray Nixon: We are looking for a workable strategy to ensure the future of allotments. The allotment site of which I am secretary is fortunate because we bought it to be held in trust for future generations. We would like sound legislation on this. Also, we want to set targets for opening new sites or reopening old sites that have simply been left because they have not been built on—that is a sad state of affairs.

The Convener: You have 30 seconds left.

Ray Nixon: Thank you.

The Convener: Please carry on, as you still have 30 seconds left—I do not seem to be getting my message across today.

Ray Nixon: In 1998, in a report on the parks and open spaces vision for Glasgow, John Conway suggested that there would be support for allotment provision where there was an identified local demand. Yet councils do not advertise allotments. One cannot go into a library and find a list of allotment sites or the names of the secretaries of sites. That is a shame. I suggest that we should advertise in libraries, council offices, police stations, doctors' and dentists' waiting rooms, and perhaps even supermarkets—that would not be against their interests, as allotment holders would still go to the supermarket to buy food.

The Convener: Can you wind up?

Ray Nixon: We would like you to pass the petition on so that we can receive some positive feedback.

Christine Grahame: As a serial plant buyer and gardener, I am very sympathetic to this petition. Who owns the land on which allotments are sited? Is it usually the local authority?

Judy Wilkinson: There is a mixture of owners. The owner can be a local authority, but there are

some private sites. Bellahouston bought its site from Scottish Enterprise.

Christine Grahame: Have you collated that information?

Judy Wilkinson: We have some information. Edinburgh—

Christine Grahame: I do not need to know just now, but if the petition is passed elsewhere in the Parliament it may be useful to have that information.

Judy Wilkinson: We can give you limited information about the sites.

Christine Grahame: How many allotments are there?

Judy Wilkinson: We think that there are about 4,500 plots in Scotland, and about 500 sites.

Christine Grahame: Is there a queue?

Judy Wilkinson: Yes. In Edinburgh, there are 1,200 plots and the same number of people on the waiting list. Those are people who have found out about allotments and signed up for the waiting list, but if there were publicity we think that many more people would be interested.

The Convener: What is the turnover of plots?

Judy Wilkinson: The site of which I am secretary has 100 plots and a turnover of 10 sites a year—10 per cent. The waiting time is about three years, as people move away or give up. Between 10 and 12 plots become free every year.

Ray Nixon: At the moment, we have eight plots that we could let. Winter is a difficult time of year to let plots, because people tend to think of working in allotments as a spring and summer activity. We have no problem letting allotments.

Ms White: I thank the petitioners for presenting their case. For too long, people who work on allotments have been happy just to tend their allotments, and have made a bit of noise only when allotments have disappeared.

The petition mentions the Allotments (Scotland) Act 1892, which was revised in 1922. I understand that each council has different rules—is that correct? Is there a group that collates the information from each council?

Judy Wilkinson: Each council manages its plots differently. For example, in Glasgow there is devolved management, so the individual sites manage themselves and the council retains only an overarching responsibility. In Edinburgh, sites are managed centrally by the recreation department. There is the Federation of Edinburgh and District Gardens and Allotments Associations. In a sense, that is a better arrangement because it means that sites know each other in Edinburgh. In

Glasgow, we are all separate and do not meet. I do not know about the management in other cities.

John Scott: Why has the number of allotment sites decreased so markedly over the past 20 years?

Judy Wilkinson: Sites such as ours are very much under threat from building and development. A current example of that is Hawkhill, which is a lovely little site in the middle of high-rise flats. It is a pocket of open space on an industrial site and, because a transportation company next door wants to expand and has said that it will provide 100 jobs, the allotment site has come under threat of being sold. The matter is being considered under the planning process.

That is a great shame, because there is nothing else in the area. There is a park, but it is more than a quarter of a mile away, across a busy road. I went to see the site on a Sunday and the children were playing in the streets. There is nowhere else in that high-rise development where people can grow vegetables or where the children can see vegetables growing. That facility will be lost, because the transportation company is expanding.

John Scott: Are you saying that local authorities or other owners are resuming those allotments against the wishes of the people who held plots previously?

Judy Wilkinson: Yes.

14:30

Ray Nixon: Absolutely. It appears that the local council stands to make £2 million on the Craiginny site from developers. The council would sell the site to the plot holders for £175,000, but where would 70 plot holders find £175,000? Those are the figures that we are up against—allotment plot holders have been up against such figures for the past 20 years.

One site in my home town of Stafford has been in operation for about 200 years, but the same redevelopment scenario took place there. Fortunately, that site was found to be held in trust, and the site at Bellahouston, where I have an allotment, was deemed to be unsuitable for buildings. That was fortunate for us, but the situation is not so fortunate for plot holders at Hawkhill and Craiginny.

Another site in Cathcart has been vacant for nearly 20 years—the plot holders were moved off, but nothing has been done to the site. That scenario is continuing and has never been addressed.

John Scott: Is there no protection in law?

Ray Nixon: The position is very vague. The Allotments (Scotland) Act 1892 provides that a

suitable site should be found, but plot holders who have held a plot for 40 years or so do not tend to want to move.

Judy Wilkinson: The Hawkhill site will be removed from the centre of the high-rise flats where it is located at present. The issue is really to do with gardens. If you live in the leafy suburbs, you will have a garden, but if you live in a high-rise flat, there is little opportunity for gardening. In some areas, such as Drumchapel, it appears that provision could have been made for allotments, but they were never considered.

We believe that allotments, or the opportunity for gardening, should be considered in new housing developments and, indeed, in old housing developments.

Christine Grahame: You talked about the community needing allotments. Do the people who have allotments tend to be those who live nearby? Is this a community issue?

Judy Wilkinson: Yes, it is very much a community issue. An allotment site is like a village—it is absolutely lovely. We have young people with children, old people who are retired, Asians and disabled people, and they all work together.

Christine Grahame: I am trying to get at whether people who have allotments live round about the area in which the site is located.

Judy Wilkinson: Some people come from places outside the area, such as Glasgow, because the site is owned by the local authority, but most people live within walking distance.

Christine Grahame: That is interesting.

The Convener: Robin, do you have a question?

Robin Harper (Lothians) (Green): No.

The Convener: I will bring in Robin when we come to our discussion of the petition, but I want to finish our questions first.

The transfer of Glasgow housing stock to a new housing association—a new owner—might have implications for plots across Glasgow.

Ray Nixon: I know what you mean, but I have heard nothing about that.

The Convener: If the people who are balloted vote for a transfer, everything on a housing estate that belongs to Glasgow City Council would be transferred to new owners. Plots on that land would transfer to new owners, who would probably seek to develop the land in new ways.

Judy Wilkinson: We had not considered that.

The Convener: It might be a good idea if you did.

Is not the law fundamental to this issue, given that existing law is out of date and inappropriate?

Judy Wilkinson: Yes. The Allotments (Scotland) Act was passed in 1892 and amended in 1922.

Ray Nixon: I think it was amended again in 1950.

The Convener: So the most important step that the Parliament could take would be to review the law and modernise it by bringing it up to date.

Judy Wilkinson: That would be fine, but we would like the Parliament to be aware of allotments, which link to social inclusion, health and biodiversity. Gardening on green spaces in our city is productive and necessary.

The Convener: As there are no further questions, I thank the witnesses.

We will move to a discussion of the petition and how to dispose of it; I invite Robin Harper for his comments.

Robin Harper: Over the past 40 years, the general drift in Edinburgh has been towards a steady loss of allotments, with very few, if any, new allotment spaces created during that period. Fifty per cent of the total area covered by allotments has been lost in Edinburgh over that period alone.

Existing development pressures are severe and will carry on eating away at allotments unless something is done. There is no sign that anything is happening to prevent the eventual disappearance of every allotment in Edinburgh; there is no last line of defence. The same applies to the rest of the country.

Although the Allotments (Scotland) Act 1892 is more than 100 years old and is out of date, my reading of it is that it states quite clearly that all local authorities have a duty to meet demand for allotment space. If that duty were implemented tomorrow, the amount of allotment space in Edinburgh would double. I suppose I should declare an interest at this point, as I have had my name down for an allotment for seven years.

The situation has been one of steady drift and it is quite important that Parliament review it with some urgency. The Parliament should not simply review the law, but consider how it could be amended so as to retain a reasonable defence for allotments. The original wording of the 1892 act—that demand must be met—might be said to be not quite reasonable. It is clearly impossible to meet demand, given that our cities are so crowded. However, a last line of defence is urgently required.

The Convener: As a first step, it is suggested that we consult the Convention of Scottish Local

Authorities to obtain its views on the issues that are raised in the petition. In particular, we should find out whether COSLA finds the present legislative position confusing and whether it would welcome a review. We should do that in any event, but it is suggested that, in the meantime, we could pass the petition to the Local Government Committee and the Rural Affairs Committee. It strikes me that, given the petitioners' comments, the petition should also be passed to the Social Inclusion, Housing and Voluntary Sector Committee.

Christine Grahame: The Rural Affairs Committee may not be an appropriate committee to which to refer the petition, as allotments are usually found in towns—that is the whole point of allotments.

John Scott: The Rural Affairs Committee covers rural towns and villages.

Christine Grahame: But we are talking about cities.

I do not know what will be contained in the land reform proposals, but I do not see why the Executive could not consider allotments as part of those proposals. The Justice and Home Affairs Committee sent the Carbeth hutters' petition to the Executive and perhaps the Executive could consider this petition alongside its land reform proposals. The Executive will deal with land reform in Scotland, so perhaps it should consider the petition in relation to that legislation. We should seek the Executive's views, to find out whether it might be able to address allotments within the reform of land ownership and use of land.

John Scott: I agree with Christine Grahame—allotments should be considered alongside the land reform proposals. Even if those proposals were not coming forward, allotments should be considered anyway.

Under the Agricultural Holdings (Scotland) Act 1991, people would have had secure tenancy to land over which they have held a tenancy for 40 years. It seems odd that people can be put off that land at will. If there were the political will to preserve allotments, the time to make such provision would be under the new land reform legislation.

Ms White: I agree with John Scott and Christine Grahame, but I am also concerned about the Land Settlement (Scotland) Act 1919.

I worked for local government for more than 10 years and I always had a problem when land—allotment sites in particular—was sold off. The local authority had only to say, "We'll give you another piece of land", but that land was either never forthcoming or half the size of the land that had been sold off for development.

I did not get any joy from the local authorities, and I do not know whether we will get any joy from COSLA. If proposals are being made for the land reform legislation that is due in February, I would be more interested in that than I would be in dealing with COSLA.

Helen Eadie: I think you are right to send this petition to COSLA, convener. My limited reading of the proposed land reform legislation suggests to me that it offers the scope for the proposals in this petition to be considered. We will want to consider community ownership and community benefit. I think it was you, convener, who raised issues about stock transfer. We should be aware of those issues, because once stock and the land surrounding it is transferred, all kinds of implications arise, for which we would require reassurances. I have never worked on allotments—I have always had the privilege of having a garden—but I know how badly many people who do not have gardens want to have allotments. I would fight for their right to have them.

The Convener: Members seem to agree that we should write to COSLA for its views on the petition and that we should pass it to the Executive and ask whether it intends to include the petition's proposals in its proposals for land reform. We could also ask the Executive whether it has considered the implications of stock transfers in cities for plots and so on. Members also seem to agree that we should send the petition to the Local Government Committee, the Social Inclusion, Housing and Voluntary Sector Committee and the Rural Affairs Committee, for their information, and that we should tell them that once we have heard from the Executive and COSLA we will make a final decision.

Christine Grahame: I suggest that we draw the issues relating to the housing stock transfer not just to the attention of the Executive but to the attention of the Social Inclusion, Housing and Voluntary Sector Committee. That committee may wonder why we are sending the petition to it, so we should point out the value that the petition puts on social inclusion.

The Convener: Do members agree with all the actions that I proposed?

Members indicated agreement.

The Convener: The third petition is from Mrs Isobel Brydie, who calls on the Scottish Parliament to take action to ensure that all Scottish prosecutions following contraventions of section 1 of the Road Traffic Act 1988 that cause death by dangerous driving be heard in the High Court. Mrs Brydie will speak in support of the petition. You have three minutes, Mrs Brydie—if this timer works. I will tell you when you have 30 seconds

left.

Mrs Isobel Brydie: The information is fairly detailed so, for anyone who requires them, I have prepared some papers that I have given to the clerk. I will be able only to scratch the surface of the subject in three minutes.

Thank you for hearing this petition. It was gathered by families who have suffered bereavement because of a dangerous or careless driver. Those families have been through the judicial process and have found it wanting. We would like Scottish families to be treated in exactly the same way as our English and Welsh counterparts. That is not happening at the moment.

As members will probably be aware, in 1989-90 the North committee decided that it would continue with a charge of dangerous driving causing death to ensure that the law accepted the sanctity of life. In 1995, Parliament decided that that was still not being taken as seriously as it ought to be; it therefore upped the maximum prison sentence from five years to 10 years for someone found guilty of contravening either section 1 of the Road Traffic Act 1988, which relates to dangerous driving causing death, or section 3, which relates to careless driving causing death while unfit through drink or drugs. A 10-year maximum sentence was therefore available.

In England and Wales, both charges are dealt with in the Crown court, where a 10-year maximum sentence is available. In Scotland—and this seems to be a political, with a small p, priority—causing death through careless driving while unfit through drink or drugs will almost automatically go to the High Court, but dangerous driving causing death will almost inevitably go to the sheriff court, where only a three-year maximum is available. Although sheriffs could remit on sentencing, that is very rare.

We are asking for parity between Scotland and England and Wales. I will try my best to give members accurate examples—but it is difficult to do so because, in England and Wales, the two charges are not separated and the statistics are therefore presented differently from those in Scotland, where the charges are separated. In 1998 in England and Wales, 61 per cent of offenders received custodial sentences of more than two years; in Scotland, the figure was only 24 per cent.

The Convener: You have thirty seconds to go.

Mrs Brydie: Oh, right—I knew this would take some time. We want parity with our English and Welsh counterparts. The law states that a 10-year maximum sentence is available, but that cannot happen unless cases go to the High Court rather than the sheriff court.

The Convener: Thank you.

14:45

Christine Grahame: This question is perhaps slightly at a tangent to the points raised in your petition. In the Justice and Home Affairs Committee, we have dealt with matters such as these. During proceedings, how much contact did the procurator fiscal service have with you with regard to what was happening with cases?

Mrs Brydie: That is something about which I will be writing to MSPs. I was made aware only two weeks ago that the Crown Office is, at this moment, carrying out a quality review. The issue that you raise will be covered by that. I have just had a three-and-a-half-hour meeting with the Crown Office. The subject is different from the one in our petition, but we have brought to light the importance of contact, information and guidelines from the Crown Office, and contact by fiscals with families. However, even if that were improved, families would have no input to decisions on where cases would go: those decisions are made by the Crown Office.

Christine Grahame: I appreciate that; and I tend to think that it has to be a matter for the Crown Office. Sometimes—not often, but sometimes—confusion can arise because of non-communication with victims and families.

Mrs Brydie: Absolutely. Things have improved slightly. When it happened to me in 1995, I was told, "It is nothing to do with you."

Christine Grahame: That is dreadful.

Mrs Brydie: After a lot of pressure and work from Robin Cook and myself, things improved—they are better, but they are certainly far from right. In dealings with the Crown Office, I am asking that guidelines be issued to fiscals on the information that families are entitled to receive and at what stage that information should be given. I hope—I am a born optimist—that the quality review may clarify the situation and that things will improve.

Ms White: I have a short question, but I always like to let the lawyers go first—I am usually contradicted because I am just a layperson. I like to look at things from a layperson's point of view but to hear the lawyers' opinions.

Christine Grahame talked about communication with the people or families involved. It is difficult to ask about this. When we look at the figures, we see a horrendous list of what has happened; I do not think that people are told the whole truth. You said that cases in England go to the Crown court. I presume that you will say yes to this: do you think that, in Scotland, we put too much emphasis on what a sheriff may say about whether a case will

be passed to the High Court? Do you think that the decision is left too much in their hands?

Mrs Brydie: No—I would say that it is left too much in the hands of the Crown Office. If sheriffs get a section 1 case in front of them, they obviously know that that is because the Crown Office has sent the case to them. I would say that the Crown Office is almost acting as judge and jury: it is saying, "We consider that this case should go to the sheriff court; we do not consider that the culpability requires more of a sentence than the three years available." That was never the intention of Parliament when it doubled the maximum sentence available. Parliament was putting out a loud message that it did not consider a five-year maximum sentence appropriate to the severity of the offence. Parliament upped the maximum to encourage stiffer sentences. That has not happened.

In England and Wales, in 1998, 61 per cent of offenders were getting more than two years, but in Scotland the figure was only 24 per cent. Within that figure, 18 per cent of cases came under section 3 and went to the High Court. I have been in touch with the Home Office to ask whether it can split the English figures, but that will take three weeks, so I do not have the figures to give a better comparison today. In England and Wales, the two charges are treated in the same way, but in Scotland they are treated differently.

Ms White: Thank you—I take your points and you have clarified things completely.

Christine Grahame: Do you have figures for the number of cases that sheriffs felt ought to have been in the High Court and remitted?

Mrs Brydie: I do not have those figures. As far as I am aware, none has been remitted in the past four or five years. I could be wrong, because that information is not in the statistical bulletins that I have seen. However, it would certainly be a very rare occurrence.

The Convener: Has any work been done to find out why England and Wales send section 1 and section 3 cases to the Crown court?

Mrs Brydie: I assume that it is because the Crown Prosecution Service considers the seriousness of both offences equal. That is not the perception of the Crown Office in Scotland. It seems to consider—and this is why I spoke of political with a small p—careless driving causing death while unfit through drink and drugs a more serious offence than dangerous driving endangering life when someone's brain is not dulled, but clear. That is not what Parliament intended: it regarded the two offences as equally serious. That is not the view of the Crown Office in Scotland.

The Convener: You are talking about United Kingdom legislation that applies in Scotland, England and Wales.

Mrs Brydie: Yes. The petition does not ask for any alteration or amendment to the Road Traffic Act 1988. We are concerned only with the implementation of the current legislation.

The Convener: And the interpretation of the Crown Office is different from that of the Crown Prosecution Service south of the border?

Mrs Brydie: I would say so. In Scotland, we have three tiers of courts—the district courts, the sheriff courts and the High Court. In England, they have the magistrates court and the Crown court.

John Scott: Am I right in understanding that you said that very few maximum sentences for death by dangerous driving are handed down?

Mrs Brydie: No maximum sentences are handed down.

John Scott: Is the maximum sentence three years?

Mrs Brydie: The maximum sentence is 10 years.

John Scott: But you said that the maximum sentence for cases in the sheriff court is three years.

Mrs Brydie: Yes, but that is not in the legislation. It happens because the sheriff cannot sentence anybody to longer than three years. It used to be only two years. If the sheriff thought the case serious enough to warrant a sentence of more than three years, he could remit the case to the High Court. That never happens because, as the Crown Office sends the case to the sheriff court, the sheriff accepts that that is the level that has been deemed appropriate.

John Scott: When the sheriff is sent cases involving death by dangerous driving, do they give people three years every time?

Mrs Brydie: If that happened every time, it would be some way towards what we want.

John Scott: Is the maximum handed down in one case in five or one case in 10, for example?

Mrs Brydie: I can give you figures for 1996, when there were 19 proven cases. Of those, five resulted in a sentence of less than one year, two resulted in a sentence of between one and two years and five resulted in a sentence of between two and four years. No one was sentenced to more than four years. In 1998, 14 cases were proven. Eight of those resulted in a sentence of less than two years and one resulted in a sentence of between two and four years.

The problem with those statistics is that, in

Scotland, it is possible only to get statistics for sentences of between two and four years.

John Scott: Given what you have said, it seems that the procurators fiscal are right in allocating the cases to the sheriff courts. If the sheriffs felt that they should be handing down heavier charges, they would be handing down the full term in every occasion. However, both the procurators fiscal and the sheriff courts say that the levels of the sentences are about right.

Mrs Brydie: I would contradict that, but doing so would lead me into areas that I was trying to avoid but which have to be addressed. One of the reasons why we would like the cases to go to the High Court is that, at the moment, unfortunately, cases can be dealt with by a deputy procurator fiscal. I would contend that, in many instances, such a person does not have the experience to deal with what I would call cases of homicide—we must remember that we are talking about homicide. In sheriff courts, 77,000 cases are dealt with but only 1,000 cases go to the High Court. What other homicide cases are not being dealt with in the High Court? We all know the pressure that sheriff courts and procurators fiscal are under. In the High Court, cases involving death by dangerous driving are now being prosecuted by solicitor advocates—until 1990, they were being prosecuted by advocates—who have extensive training beyond that of procurators fiscal. From the point of view of investigation and the presentation of evidence, it is our contention that—to ensure that the scales of justice are equal and that the prosecution lawyers are trained to the same degree as the defence lawyers—the right place for dealing with homicide cases is the High Court. I am not blaming procurators fiscal, who are under pressure and are not sufficiently trained to deal with some of the evidence that should be introduced by crash investigation officers, but, having sat through hearings of these cases for the past 15 years, I can say that the use of more highly trained solicitor advocates in the High Court would ensure that the scales of justice would be more balanced.

An attempt to get a case of culpable homicide to a sheriff court some months ago caused a furore. We contend that there is only one place in which cases of homicide involving dangerous driving should be heard. One of the high priorities in the European convention of human rights is the sanctity of life. The only place to talk about issues arising from the sanctity of life is in the High Court, where other homicide cases are being dealt with.

The Convener: Thanks for answering our questions.

Members know that this is not the first petition that we have received on this subject. We have already referred the others to the Justice and

Home Affairs Committee, which is awaiting the publication of research by the Crown Office and the Department of the Environment, Transport and the Regions. When Steve Farrell, the Public Petitions Committee clerk, was discussing the latest petition with the clerk of the Justice and Home Affairs Committee, it emerged that they had differing points of view. The Justice and Home Affairs Committee clerk expressed the view that, given that the petition relates to offences committed under a UK act, the issues raised in the petition are reserved. Our clerk, however, believes that, while the classification of certain offences in road traffic legislation is reserved, the petition calls for changes in the way in which such cases are dealt with under the Scottish court system, which is a devolved matter. He considers the petition to be competent for the Scottish Parliament to consider.

Given their disagreement, the clerks sought advice from the Scottish Parliament's legal team. We received that advice only half an hour before the committee began, which is why it was not circulated to members. I will read it into the record so the petitioners can read it in detail in the *Official Report*.

The letter begins with a hair-splitting legal definition.

"1. One small point of clarification at the outset. The offence under Section 1 of the Road Traffic Act 1988 is causing death by reckless driving and not, as the petition states, causing death by dangerous driving."

It continues:

"2. The petition asks the Scottish Parliament to take action 'to ensure' that prosecutions under Section 1 of the Road Traffic Act (RTA) are heard in the High Court. We are advised that the only way to ensure that any prosecution is tried only in the High Court and not in any other court is to insert a provision to this effect in statute.

3. If it was considered desirable for the High Court to be given exclusive jurisdiction over offences under section 1 of the Road Traffic Act, this might be done by amending the Road Traffic Act or the Criminal Procedure (Scotland) Act 1995 to provide that prosecutions under Section 1 of the Road Traffic Act may only be tried by the High Court.

4. However, amending legislation of this nature is likely to be outwith the legislative competence of the Scottish Parliament on the grounds that it relates to a reserved matter. This legislation would need to be brought forward at Westminster.

5. The Scottish Executive could be asked by the Scottish Parliament to bring pressure to bear on the UK government to bring forward the necessary legislation. However, it does not appear to be possible for the Scottish Parliament 'to ensure' the action requested in the petition."

15:00

The note then turns to decisions on prosecution. It states:

"6. The Committee could consider another approach. As

members may know . . . in the case of offences triable on indictment (such as this one) it is for the Procurator Fiscal to decide whether the offence should be prosecuted in the Sheriff Court or the High Court. These decisions are for the Fiscal alone to take. We have been advised, therefore, that it would not be for the Parliament to bring pressure to bear on Fiscals in this regard.

7. It is suggested, however, that the Committee could ask the Lord Advocate for information relating to decisions on prosecution. The Lord Advocate will most likely confirm that it is for the Fiscal alone to decide in each individual case. However, the Lord Advocate may be able to provide a breakdown of previous prosecutions in the High Court and Sheriff Court under section 1 of the Road Traffic Act. This information might be helpful to the petitioner."

We are asked to agree whether we should write to the Lord Advocate along those lines. However, the issue is open to discussion.

Christine Grahame: This is a beezer of an opinion. Unfortunately, we cannot touch road traffic legislation—I wish we could—but I was not aware that we cannot amend legislation governing criminal procedure in Scotland. I need to check that for myself. The issue here is exclusive jurisdiction. I thought that we were in a position to amend criminal procedure acts and civil procedure acts. We are amending family law, for God's sake. Criminal law has been independent in Scotland since before the union. I am rather surprised by the opinion that has been given. It would be interesting to let the Justice and Home Affairs Committee see it and to see what it says about what we can and cannot do.

It is suggested that we ask the Lord Advocate for facts, which is fine. Gordon Jackson knows more about this than me, but the Lord Advocate must issue to the Crown Office guidelines on assessing cases and deciding whether they go to the sheriff court or the High Court. We could pursue that.

I accept that we cannot amend road traffic legislation, but not that we cannot amend criminal procedures legislation. The second issue is what we can and cannot ask the Lord Advocate about prosecution guidance. There are also other issues, which have been raised before in the Justice and Home Affairs Committee, to do with the pressures on the procurator fiscal service. We might ask the Lord Advocate about the petitioner's suggestion that inexperienced fiscals—whose inexperience is not their fault—are being faced with highly experienced defence lawyers. It is suggested that that affects how a case is run or on the plea bargaining that takes place in advance, leading to a reduction in the charge. I would hate us to walk away from such issues.

Helen Eadie: I support strongly what Christine Grahame has said. I hope that the Lord Advocate will provide guidelines. I cannot imagine that any MSP would not strongly support the petitioner's

view of the seriousness of issues such as this one. I hope that before the convener departs from the Westminster scene, he and his other colleagues from this Parliament who are still MPs will do what they can to ensure that the necessary amendments are made to the relevant legislation at Westminster. I agree that we should not let this go.

I should declare an interest. Not long ago I wrote to Isobel Brydie to tell her that I support the cause that she and others are championing. We must get the message across to people that safe driving is important.

John Scott: I have every sympathy with the petitioner. We should also ask the Law Society to express an opinion on this issue. I have difficulty with the fact that it does not appear that sheriffs or fiscals feel that the law as it stands is inadequate. There is no clamour for change. The petitioner makes the perfectly valid point that stiffer sentences should be handed down. However, if I have understood correctly what Isobel Brydie has said, at the moment it does not appear that sheriffs or fiscals believe the current law to be inadequate.

Helen Eadie: I would like to challenge that.

John Scott: That is fine.

Helen Eadie: It is all very well trying to blind people with science, but the public is making a fundamental appeal to us to tighten up the law in this area. This is the first time we have been informed of the technicalities of any change. It is not easy to work one's way through that minefield. However, we must do it because there is a public will that it should be done.

Ms White: I, too, would like to challenge John Scott, but I will speak to him afterwards.

The Convener: So it is a case of, "I'll see you outside, John."

Christine Grahame: Is it on a separate matter?

Ms White: As has been said, there is a lot for us to do. The petitioner made her case very well and, like most members present—including John Scott, who may simply have some questions that he would like answered—I support her.

The problem that I have is that we are dealing with three tiers of the justice system here. If the Crown Office tells the sheriff court something, the sheriff court will do what it is told, because it sees the Crown Office as a higher tier of the system. Christine Grahame will probably disagree. I was going to say something nice about Christine, as it is great to have a lawyer here. I agree with everything she has said. I cannot understand why the Scottish Parliament cannot challenge any of these laws or fiscals. Nobody should be above the

law, and that includes the legal profession. We must ask why we cannot challenge some of these things. I would like the convener or the clerk to collate everything that has been said. They can then let us know what our options are and which committees we can send this petition to.

Christine Grahame: Convener, I would like you to seek clarification of the legal advice that you read out, which I have not read myself. You may know the answer to this question, but what is the basis in the Scotland Act 1998 for the suggestion that we cannot alter criminal procedure rules and jurisdictional rules? The petitioner is seeking exclusive jurisdiction for the High Court. I thought that it was within the remit of the Parliament to grant that. I would like to know exactly why we cannot do that.

The Convener: I have the advice in front of me, which gives me an advantage over everyone else. It lumps together the Road Traffic Act 1988 and the Criminal Procedures (Scotland) Act 1995.

Christine Grahame: That is not right.

The Convener: In the next paragraph, the note states:

"amending legislation of this nature is likely to be outwith the legislative competence of the Scottish Parliament on the grounds that it relates to a reserved matter."

There may be room for doubt there.

I am now being advised that the arguments are finely balanced and quite technical. I would not wish to go into them. However—

Christine Grahame: I would like to hear the technical arguments.

The Convener: According to our current understanding of section 29 of the Scotland Act 1998, the advice is that an amendment to make the provision that is being proposed would be likely to fall outwith the Parliament's competence. The view of legal advisers is that legislation of this sort would need to be introduced at Westminster. That is their view, but it is not necessarily the law. The legal advice is open to challenge.

I endorse Christine Grahame's suggestion that the advice note should be passed to the Justice and Home Affairs Committee for information. The committee is already considering petitions of this kind and I am sure that it will be interested. In the meantime, we should take all the courses of action that have been suggested in the past few minutes. We should write to the Lord Advocate seeking clarification of the ruling under the Scotland Act 1998 that we have been given and an explanation of why it is for the fiscal to decide in each case. We should ask him what guidelines he issues to fiscals when they are considering prosecutions in cases of this kind. We should also ask him to

comment on the evidence that has been presented to this committee about pressure on the procurator fiscal service that means that inexperienced deputy fiscals end up taking decisions in highly important cases. In the view of this committee, that is not appropriate.

Christine Grahame: Are we entitled to ask him for his views on the petitioner's request that jurisdiction in matters relating to section 1 should be exclusive to the High Court?

The Convener: We can certainly ask him to comment on that. As Christine Grahame knows, the Justice and Home Affairs Committee has a heavy programme and would, I think, appreciate it if this committee took some of the burden by raising the issues with the Lord Advocate before we pass the question in its entirety to the Justice and Home Affairs Committee for its consideration. We will do the groundwork with the Lord Advocate and report back to the Justice and Home Affairs Committee on what we receive from him.

Christine Grahame: I would like to request the highly technical stuff, which was thought to be too much for us. I would like to read it.

The Convener: Absolutely.

John Scott: Can we all have it?

Christine Grahame: All the members want it.

The Convener: They can all have it.

Before we started, I should have declared an interest in this petition, as I signed it in Dundee.

Helen Eadie: So did I.

The Convener: I suspect that a number of committee members may have signed it.

Petition PE283 is from Geraldine MacDonald on behalf of the Scottish Organisation Relating to the Retention of Organs. The petition calls on the Scottish Parliament to initiate a public inquiry into the practice of organ retention at post-mortem without appropriate parental consent. Geraldine MacDonald will speak in support of the petition. Before I ask her to do so, I should say that since the petition was submitted—members will see that it has 13,500 signatures—we have received another 750 signatures in support of the petition.

Geraldine MacDonald (Scottish Organisation Relating to the Retention of Organs): Good afternoon. I begin by thanking the committee for taking the time to consider the petition. My name is Geraldine MacDonald. I am the mother of a child whose organs were removed, without my knowledge or consent, following his death at Yorkhill hospital. I am also the chairperson of the Scottish Organisation Relating to the Retention of Organs, which represents around 60 parents whose children's organs have been retained

without consent.

The petition calls for a public inquiry into the practice of organ retention at post-mortem without valid parental consent. As an organisation and as individuals, we have lobbied the Minister for Health and Community Care to order a full public inquiry, but to no avail. Instead, the minister has established an independent review group to examine past practice, develop guidance and examine current legislation relating to consent and the removal, retention, use and storage of organs.

Members may wonder why we, as parents, are not satisfied with the action that the minister has taken. From the outset, I should say that we have no objection to the second and third aspects of the review group's work. The development of guidance and the examination of current laws are properly matters for a group of that nature. However, we are not satisfied that such a group is best placed to carry out a review of past practice. The group lacks openness and will afford no opportunity to parents whose lives have been devastated by the practice or to those who have carried out organ removal to give evidence and contribute their views and experience in public.

So far, the only reason that the minister has given for refusing a public inquiry is that some parents do not want one to take place. We appreciate the views of those parents, but point out that they would be under no obligation to give evidence. Their legitimate views should not automatically take precedence over the views of those of us who want an inquiry.

As parents, we demand answers to a number of questions. We want to know about the practice of retaining organs; the extent of the practice across Scotland; the reasons for the practice; the criteria on which decisions to remove organs were taken and who was authorised to take them; the purposes for which the organs were removed; and the number of organs still held by Scottish hospitals and the plans that are in place to dispose of them. We believe that those questions will be answered properly only at an independent public inquiry.

Convener, few can imagine the trauma of losing a child—it is beyond articulation—but try to imagine how it feels for parents, forced to face that trauma, to discover, often years later, that the child whom they buried had been violated. Some parents in our group, if given the choice, would have agreed to organ removal, if its objective had been to help others. However, to have been denied that choice, as well as the knowledge that someone else had made it, is unforgivable. No one can change the past, but members have the chance to help us to ensure that the past is not repeated. Please take that chance.

The Convener: Thank you. That was excellent. The discussion is open to members of the committee to ask questions.

15:15

Christine Grahame: I always seem to start. I have every sympathy. This is a dreadful situation. Many of us on the committee are parents. What happened is beyond words. My questions, however, are quite matter of fact. What contact has the Executive had with you about the independent review group? Will you have any input?

Geraldine MacDonald: We have had no formal word from the Executive, but we have put our cards on the table and have said that we do not want to take part in the group, because it will not be independent.

Christine Grahame: You have therefore made it clear that the structure of the group is wrong from the start.

Geraldine MacDonald: Yes.

Christine Grahame: Are you corresponding with the Executive and, in that correspondence, have you said why you consider that the group is not independent?

Geraldine MacDonald: Yes. When we contacted the Executive, we gave the reasons why we believe that the review will not be independent, which I read out.

Christine Grahame: Have you had a response?

Geraldine MacDonald: No.

Christine Grahame: When did you write?

Geraldine MacDonald: On 5 September.

Christine Grahame: Have you had an acknowledgement?

Geraldine MacDonald: I am sorry. I tell a lie. We notified the Executive on 22 October.

Christine Grahame: So it is fairly recent.

Geraldine MacDonald: We contacted the Executive following the press release, when the minister announced what she planned to do.

Christine Grahame: I wanted to see whether the Executive had responded. Thank you.

Ms White: Thank you, Geraldine. I have a question for you and a question for the clerk. Our papers say that the information requested from the Executive will be available. Did you want to say something, convener?

The Convener: I was going to reply.

Ms White: So we have had a reply.

The Convener: We have not had a reply, but I have some information.

Ms White: I just wanted to clarify the situation for Geraldine, who said that the reason Susan Deacon had refused the public inquiry was that some parents did not want the public inquiry to take place. I wondered whether we had received much the same answer. I take it that the information will be read out to Geraldine.

Geraldine, thank you for presenting the petition. What do you hope will come from a public inquiry? I know what I would like to come out of it.

Geraldine MacDonald: We hope that the truth will come out about what exactly went on in Scottish hospitals. We want to know who was involved and who is accountable—we want someone to be held accountable for what has happened. We know that it was common practice for organs to be retained, but that does not make it right by any manner of means. At the end of the day, we want our questions answered. The only way that we will get that is through a public inquiry.

Ms White: You say that organ retention was common practice, but it did not seem to most people that this sort of thing went on. It was only once the story came out that people realised the scale of the practice. Would you want the public inquiry to go back a certain number of years? Would you stipulate a time scale?

Mr Jim McKinnon (Scottish Organisation Relating to the Retention of Organs): I will answer that. My name is Jim McKinnon. I am vice-chairman of SORRO. We have members whose case dates from 1963; the most recent case dates from February this year. That is a span of 37 years. It would be unwise to go back and cold call people to tell them what had happened—that would not solve anything. However, the health service, the pathologists and the Crown must come together and come clean to say, "Yes, it was a mistake. We carried out a bad procedure." At the moment, all we have is a sympathetic apology from the British Medical Association.

We are keeping an eye on the attitudes at Bristol royal infirmary and Alder Hey children's hospital in Liverpool. Bristol had a full public inquiry and Alder Hey has an independent review. At Alder Hey, the hospital authorities are taking severe action. In Scotland, hospitals seem to be trying to hide behind saying, "That is what went on; that was the usual procedure." Rather than a cover-up, we want the people responsible in the hospitals to be carpeted. Each parent in our group wants an answer to the question, "Who did that to my child?" It is a feeling about protecting our kids. We all protect our kids while they are alive; we have lost children, but that feeling of protection remains. When you find that your child has been misused—

that is the kindest word that I can use—someone must be held accountable.

We believe that there will be 13 people on the review group, which is to be headed by Professor Sheila McLean. We do not know who those people will be and can only surmise. Sheila McLean is professor of medical ethics at the University of Glasgow, so she will have taught ethical background to some of the doctors and she must have known that the practice was going on.

This is about trust and trying to regain trust in the NHS. I do not think that a review will achieve that. The only thing that will is an open, independent, full public inquiry to settle the issue once and for all.

Helen Eadie: As a parent, I too would like to place on record my concern and support for the parents concerned. My impression is that the independent review would be a much speedier process than a public inquiry would be. Is that speedier process not to the benefit of everyone?

Mr McKinnon: I agree that speed is of the essence. Every family wants the matter to be—as we put it—put to bed as quickly as possible so that we can get on with our lives. However, the overriding factor is trust. We do not have a problem with the retention of organs for medical science or with people donating organs. The fundamental issue is that people took organs from our children without consent. They have yet to explain what the purpose was or what has been done with the organs. A speedy review may save time and money, but I am convinced that only a full, independent, public inquiry will give families the opportunity to ask prominent people the questions to which we need answers. I do not think that the review will get us the answers that we require.

Helen Eadie: Would you accept that a sensible way forward might be to allow the independent review group to go ahead with your full co-operation and involvement, if that is on offer? If the review group is not open and accountable to you as parents, and if things do not work out as you think they should, you would have a clear position of going on to a public inquiry.

Mr McKinnon: We balloted our members on whether they wanted an independent review or a full public inquiry. They were unanimous in wanting a full, independent public inquiry.

Geraldine MacDonald: This is about the truth. The review will take at least three years. I do not see it being done in two years; the membership of the group was supposed to be announced two weeks ago, but that has not yet happened. A public inquiry would not take that long. If a public inquiry had been announced at the outset—parents who did not want to be involved would not

have to be—we would have been well on the way with it by now. Parents want trust and the truth. That is what is lacking, but they will not get it from a review.

John Scott: I would also like to place on record my horror at what you have told us today and my support. You have said that you would not go to a review, but would you go to a public inquiry?

Geraldine MacDonald: Of course.

John Scott: Do you think that that would be the view of the other parents who are refusing to go to a review?

Geraldine MacDonald: The parents in our group who want a public inquiry would go to it.

John Scott: On the point that Helen Eadie made, I feel that it may be more important to get the right answer than an expeditious answer.

Geraldine MacDonald: That is what we are trying to explain—

John Scott: If Helen Eadie's proposal was taken up, you might have to go through the process twice. It might be better to have a public inquiry in the first place.

Mr McKinnon: It is my understanding that the main aim of the independent review will be to uphold the name of the NHS and to get the pathologists back on track. I do not think that the main aim of the review will be to satisfy the parents concerned in the scandal. We need a judge to sit in a full, independent public inquiry so that not just the parents involved in our group but all of Scotland will see that the Scottish Parliament will not tolerate a cover-up.

Christine Grahame: Sheila McLean is the only name you mentioned in connection with the independent review. You said that you thought she might not be independent as she may have taught the doctors concerned. Have you raised that with her? It is only fair to Professor McLean that that issue is raised with the Executive so that she can address it.

Mr McKinnon: The group is writing to her.

Christine Grahame: I raise the issue because people are entitled to respond to something that has been said about them in public. You should address either the professor directly or the Executive to give her the opportunity to reply. That would also apply to other members of the review body, if it goes ahead.

Geraldine MacDonald: When Sheila McLean's involvement was announced, I faxed her, giving the group's reasons why we did not want to be involved with the review group, including the fact that we did not think that she would be independent.

Christine Grahame: You raised the specific point that she may have taught people—

Geraldine MacDonald: Yes. I have that fax.

Christine Grahame: You say that, because she had taught doctors, she was aware that the practice was occurring. She may not have been—I do not know. It is important that the issue is put properly, for her sake.

The Convener: I associate myself with the expressions of sympathy made by all members of the committee for the plight and predicament in which you find yourselves. We will now consider how best to progress the petition. You are welcome to stay to listen to the discussion. Thank you for attending.

It was hoped that information requested from the Executive would be available at this meeting to assist the committee in reaching a view on the action to be taken on the petition. The clerk wrote to the Executive asking officials to provide the committee with the background to the Minister for Health and Community Care's decision to establish an independent review group on past practice and on the legislative position in relation to the matter referred to in the petition. He requested specific information as to why that approach was favoured over a public inquiry. Unfortunately, the Executive has not yet provided that information. However, we understand that the information will be available for the committee's next meeting, so I suggest that we wait until then before considering how to progress the petition.

15:30

Ms White: When did we write to the Executive?

The Convener: Four weeks ago.

Ms White: I am not happy about the fact that we wrote a month ago and have not yet had a reply.

The Convener: To be fair, that is because the Executive is trying to agree on a reply. It is not because the Executive is not concerned—it is. Discussions are going on within the Executive, which wants to get its reply right before coming back to the committee. It appreciates the seriousness of the issue.

Ms White: The Executive obviously has to get its reply right, as the reply that it gives to us is the reply that it will give to the various groups concerned. However, given that we are four weeks down the line, the length of time that it will take the Executive to set up the review does not bear thinking about.

The Convener: We are told that we will have the reply in time for the next committee meeting.

Christine Grahame: It might be appropriate for

us to ask about the matter raised by the petitioners on the potential conflict of interest with the chair of the review group.

The Convener: We could report to the Executive on the issue after our discussion today, saying that we would be grateful if it could comment.

Christine Grahame: That would be fair.

John Scott: From my recollection of the minister's response to the matter when it was raised in the Parliament, the reason for not having a public inquiry was that many parents did not want to take part, which could make the inquiry invalid. The point that Ms MacDonald made was that, if people still did not want to take part, there would be no obligation on them to do so. The fact that so many of them appear unwilling to take part in a review and would prefer to take part in an inquiry makes the case for an inquiry strong.

The Convener: When we write to the Executive, explaining the comments about Professor Sheila McLean, we could mention the fact that the petitioners have responded to the original reasons that were given for the decision. That is why we are asking not just for the official response, but for the background that led the Executive to make its decision. Is that suggestion agreed to?

Members indicated agreement.

The Convener: Petition PE284 is from Mr Fraser MacKenzie. The petition has been brought forward to this point in the meeting because Linda Fabiani has been waiting patiently to discuss it. The petition calls on the Scottish Parliament to investigate the proposed sale of land in the area of East Mains, East Kilbride, by South Lanarkshire Council. Photographs relating to the petition were submitted today and have now been circulated.

Members will remember that we had a similar petition about Overtoun Park, which also lies within South Lanarkshire's boundaries. On that occasion, we obtained the council's comments and subsequently passed the petition to it in order for it to be taken into account as part of the council's consultation exercise on that land.

Before we consider petition PE284, we should let Linda Fabiani speak to it.

Linda Fabiani (Central Scotland) (SNP): Fraser MacKenzie is present and it is unfortunate that he has not been allowed to speak today. I understand that that is because of the committee's new procedures—you felt that you had enough information.

I am particularly interested in the fact that the committee has dealt with a similar matter regarding Overtoun Park in Rutherglen. It is very relevant that that is also in South Lanarkshire. I

see that the committee chose to pass the petition to the council, asking it to consider it as part of the consultation exercise. The main problem is that South Lanarkshire Council does not carry out consultation exercises. If the committee decides to pass on the petition, the council is very likely to ignore it, just as it has ignored all along the views of the 1,040 residents who have signed the petition, as well as those of various other residents of East Kilbride who have complained about other land sales in the area.

I ask the committee to consider doing more than merely passing the matter back to the council. I reiterate that South Lanarkshire Council does not consult; it treats local residents with contempt and it treats elected representatives of this Parliament with contempt. Let me illustrate the level of consultation that the council takes. It pays for and takes out two-page adverts in the local press implicitly and explicitly to insult and discredit members of the electorate within its area and the elected members of this Parliament. I will be going to the Auditor General for Scotland on that, as I believe that placing such adverts is a misuse of public funds.

I ask everyone to consider the petition carefully in light of the lack of consultation and the fact that the area is the last amenity that the people of East Mains have. I ask members to consider the various committees to which the petition could be passed. There is a case for it to be considered by the Transport and the Environment Committee. The stated Agenda 21 aims of the council suggest that there are environmental considerations. The petition could be passed to the Social Inclusion, Housing and Voluntary Sector Committee, as the park is a meeting place and an amenity for all citizens—of all ages—of the area. The Education, Culture and Sport Committee, given its sport remit, could also consider it, as there is a defined football pitch, which is used by children and adults.

I ask the committee to pass the petition on to other committees, rather than back to the council, which would completely ignore it. I have already asked for guidance from the Local Government Committee and from the Presiding Officer on how to deal with a council that treats elected members with contempt. I state for the record that I did not ask for that guidance in relation to South Lanarkshire Council. Unfortunately, the answer that I got was that absolutely nothing could be done. I suggest that the Public Petitions Committee, in its role of taking petitions from the public, should be seen to be able to deal with them, even when another elected body might seem, on the surface, to be the one to deal with a matter. This Parliament, through its committees, should be seen to have a say in how Scotland should be run—whether that be by monopolist councils in the central belt of Scotland or

otherwise.

The Convener: Those were clearly very serious allegations against South Lanarkshire Council. I am conscious that councils have been attacked before at meetings of this committee. Those councils were not given forewarning of those attacks and were not here to represent their points of view. I suggest that we send a minute of this meeting and the petition to the council, asking for a response, before we consider the matter further.

John Scott: Before I heard Linda Fabiani, I wrote down that our recommendation that no further action should be taken should be changed and that, instead, we should ask South Lanarkshire Council to give its reasons for taking the action, contrary to its own local structure plans.

The Convener: This is now out in the open. I think that the council should be given the chance to respond before we consider the matter further.

Christine Grahame: I take it, convener, that you meant the record of the meeting, not the minute.

The Convener: Yes: the record—the minute—no, the record. [MEMBERS: “The *Official Report*.”] The *Official Report*, sorry.

Christine Grahame: I know that it was a hard Monday for you, convener.

Ms White: We obviously have to be seen to be fair. Everyone has to have their say. You have mentioned that you intend to send the record of this meeting to South Lanarkshire Council, to which we hope that it will reply. I take it that this petition will be held over and that no decision will be taken on it.

The Convener: Yes—that is what I am saying. We are not taking a decision on this until we hear from the council.

Ms White: I am quite happy with that. If you give South Lanarkshire Council the opportunity to read the record, will the petitioners also receive a copy?

The Convener: Yes. Are you referring to Mr Fraser MacKenzie?

Ms White: Yes. He will receive a copy too.

The Convener: The account of what happened in today’s meeting will be in the *Official Report*.

Ms White: I cannot ask Mr MacKenzie, as he is not here, but—

Linda Fabiani: Yes he is.

Ms White: Is he? Is he allowed to—

The Convener: That is part of our agreed procedures. We have allowed four sets of petitioners to—

Ms White: Perhaps I can ask Linda Fabiani,

then. John Scott mentioned the council's local plan. If the proposals are against the local plan, there are surely other courses of action that the petitioners could take. Have they tried complaining to the local government ombudsman?

Linda Fabiani: That is also on the cards. Residents, not just of the East Mains area, but of other parts of South Lanarkshire, may be expected to submit petitions fairly soon on similar subjects. The residents are organising themselves and are considering all options.

Ms White: If there is enough opposition from residents and if the petitions are big enough—there are 1,040 signatures to this one—the residents could in any case attempt to instigate a public inquiry, with a reporter. Is that also happening?

Linda Fabiani: I would have to go back to the residents association to answer that point. I am not quite sure.

The Convener: It has just been pointed out to me that the local government ombudsman exists to deal with situations where councils are not meeting their legal responsibility to consult local residents.

Christine Grahame: I want to ask about the time scale. At what stage is the proposed sale of land? Is it on offer?

Linda Fabiani: That is the worry. The closing date for the receipt of tenders from developers is 17 November. I hope that the committee will write to the council and request a very quick response. Although 17 November is only the date for tender return and it would normally take some time for tenders to be considered, it is not beyond the realms of possibility that the land could be sold by the end of November.

Helen Eadie: You said that it is on the cards that the residents will approach the ombudsman. Does that mean that letters have been written to the ombudsman?

Linda Fabiani: The people who are addressing the issue in East Kilbride—through community councils and residents associations—are perfectly able to deal with matters such as writing to the ombudsman themselves. I have taken a back seat on the issue, although I have clear opinions, because I do not want to be accused of party-politicking—it has not mattered that I have not done it; I have still been accused of it. I am here today to speak to the Public Petitions Committee on behalf of the residents.

When the committee writes back to the petitioners, members might want to ask about further details.

Helen Eadie: Did you, as an elected member,

write to the ombudsman on the residents' behalf?

Linda Fabiani: No. I have written to the council on behalf of the residents.

Helen Eadie: Have you asked for a meeting with the council?

Linda Fabiani: No. It took a long time for me to get a reply from the council. There have been refusals to meet residents and local councillors representing different political parties on this issue.

Helen Eadie: Has the council refused to meet you to discuss this issue?

Linda Fabiani: No. I have not requested a meeting. As I said, the petitioners are very capable of acting for themselves. I am providing back-up where required. They also have councillors who are acting on their behalf.

Helen Eadie: Did you suggest to the petitioners that the first line of action might be a direct meeting with the council and that if they were refused a meeting, it might be appropriate to send a petition—

Linda Fabiani: Can I say, again, that the petitioners do not need advice at that level from me. They attend community council meetings and have dealt with their local councillors. They have done all those things already.

The Convener: The petition cannot be progressed until we hear from South Lanarkshire Council. We take the point about 17 November being the date on which tenders must be returned. We will include that in our letter to the council and ask for a speedy response so that we can consider the petition again.

We next meet on 7 November. I hope that we will receive a response before then. I am sure that we will when the council reads the *Official Report* of this meeting.

Christine Grahame: Can I just clarify what we are asking it to comment on? Is it the *Official Report* of the meeting and the breach of the district plan?

The Convener: Yes, and the petition.

Is it agreed that we write to the council and discuss the petition at our next meeting?

Members indicated agreement.

The Convener: The next petition is PE274 from Mrs Patricia Drysdale on the supervision of inmates at Jessiefield prison. The petition calls on the Scottish Parliament to ensure that there is an inquiry into the safety and welfare practices in operation at Jessiefield prison in Dumfries.

The petition sets out the tragic circumstances surrounding the death of Mrs Drysdale's son,

Graham, while he was in custody in Jessiefield prison. [*Interruption.*]

I apologise to Mrs Drysdale, but we are unable to hear any more oral evidence today.

Mr Drysdale was found dead in his cell and it has been alleged that the cause of his death was a drug overdose. Mrs Drysdale questions whether the practices to combat drug use in the prison are effective. She also considers that inconsistencies between the timings in the autopsy report of her son's death and in the standard sequence of checks on inmates in their cells points to a problem with such procedures.

The petition raises some very serious issues, but we are not able to progress the matter until we receive a response from the Scottish Prison Service. It is suggested that we copy the petition to the Prison Service and ask it to comment on the circumstances described there. We would then consider it further at a later meeting.

Christine Grahame: I suggest that a copy be sent to the Minister for Justice or the Deputy Minister for Justice, simply for noting. They are engaged in reviewing how drugs are dealt with in prisons and this petition should be brought to their attention.

The Convener: We will send the petition to the Deputy Minister for Justice for information. We will tell him that we will keep him informed of the committee's subsequent consideration of the petition.

Ms White: This is a very serious issue. I am sorry that we cannot ask Mrs Drysdale any questions and I apologise to her for that.

The Convener: Mrs Drysdale can apply to speak at a later meeting of the committee.

15:45

Ms White: I want to clarify to Mrs Drysdale that we will return to the petition once we have obtained the necessary information from the Prison Service. She would then be more than welcome to speak.

The Convener: The petition will return to the committee, but we need the information from the Prison Service. We will notify the petitioner of what is happening, so that she knows when the committee will next consider the petition. Is that okay?

Members indicated agreement.

The Convener: The next petition is PE275 from Mr Brent Hodgson, on false reports held by the rural affairs department. Mr Hodgson is calling for the Scottish Parliament to urge the rural affairs department of the Scottish Executive to abide by

the rules of natural justice and the European convention on human rights in relation to public access to records held.

The petitioner is concerned that he is unable to gain access to files in the rural affairs department that he claims contain false reports and information about him. It would appear from the papers that have been provided that that material concerns allegations of unprofessional conduct by Scottish agricultural colleges in relation to a vocational course on which the petitioner was enrolled.

It is suggested that it is not for the Parliament to become involved in individual complaints of the sort that is made in this petition and that we recommend to the petitioner that he raise this matter with the Scottish parliamentary commissioner for administration, who has responsibility for investigating complaints about the Scottish Executive and a range of other bodies. At this stage, this is a matter for the Scottish parliamentary commissioner for administration, rather than for this committee. Until the petitioner has exhausted that option, I do not think that we should consider his petition.

John Scott: That is what he should do in the first instance.

The Convener: Yes. Individual complaints should be directed to the Scottish parliamentary commissioner for administration before they come to the Parliament. Is that agreed?

Members indicated agreement.

The Convener: We will inform the petitioner of that outcome.

The next petition is PE276, which is from Ms Elizabeth Girling on behalf of Lothian Allergy Support Group and calls on the Parliament to establish specialist clinics for the diagnosis and treatment of allergies in NHS hospitals in Scotland.

The petitioner is concerned that specialist allergy clinics are almost unknown in Scotland, with the exception of clinics for young children. She claims that this contrasts with the position in England and Wales, where there are more than 50 clinics in NHS hospitals. She also calls for the provision of more grants for research into the causes of mental and physical allergic illnesses.

I think we need information about this issue. We could send it straight to the Health and Community Care Committee, but committees do not welcome petitions. This is a very good petition but, given its work load, the Health and Community Care Committee would not welcome the petition at this stage. We can do some of the ground work first by obtaining information from the Scottish Executive about its current policy on allergy diagnosis and

treatment and by asking it whether it proposes to establish clinics of the type suggested by the petitioners.

John Scott: The second paragraph of the members' briefing states:

"The petitioners are concerned that no specialist allergy clinics are almost unknown in Scotland".

That "no" should be excised.

The Convener: Yes. That is a typing error—it led me up the garden path as well.

Ms White: The briefing also states that the petitioners

"claim that this contrasts with the position in England and Wales".

We have evidence that there are clinics in England and Wales.

The Convener: We must wait until we hear the Scottish Executive's position. We do not know what the situation is.

Ms White: Can we get evidence on that?

The Convener: The purpose of writing to the Executive is to find out what provision is.

Helen Eadie: For the record, I would like to say that I find this a really interesting petition. I have been interested in this subject for a long time.

The Convener: The petition is very well researched. After we have received a reply from the Executive we will consider it further.

The next petitioner is Mr David Emslie. His petition—PE277—calls on the Scottish Parliament to initiate a public inquiry into the administration of Grampian Housing Association Ltd, with a view to introducing legislation to allow the monitoring and audit of housing associations in Scotland. There are several papers that detail the steps Mr Emslie has taken in this matter. At one stage he was taken to court by the housing association and the court found in his favour. In fact, the rent charged was reduced for him, but not for the other tenants.

The problem is that it is not appropriate for the Parliament to conduct an inquiry into the activities of Grampian Housing Association, as is requested by the petitioner. However, the issues raised by the petitioner may be considered as part of the Executive's consultation on the financial monitoring role of the proposed new executive housing agency—that will be in the forthcoming housing bill.

It is suggested that the clerk could write to the Scottish Executive, asking for further information on the issues to be included in the consultation and whether the type of issue raised in the petition will be included in the consideration. Because the Social Inclusion, Housing and Voluntary Sector

Committee, of which I am a member, will deal with the housing bill, this is a matter that will go before that committee. The monitoring of housing associations and how it is to be effectively implemented, particularly in the post stock transfer era, is certainly included in the housing bill. It is important that issues of this kind are brought to the attention not only of the Executive but of the Social Inclusion, Housing and Voluntary Sector Committee.

John Scott: The petitioner contends that the reduction was not passed on to other tenants. What other recourse does the petitioner have? He has been to court and a judgment has been passed in his favour, yet he has been unable to get that benefit for other people in the housing association.

The Convener: The other recourse would be to go to the housing association ombudsman.

John Scott: Has he done that?

The Convener: The ombudsman says that the complaint is outwith his remit. This is one of the problems—the housing association movement that has grown up over the past 25 years has had piecemeal growth in Scotland. The legislative framework does not necessarily deal with all the different issues that have arisen over the years. There are gaps in provision, but that is what the housing bill is meant to address. It is meant to consider the new legislative framework in which housing associations will be monitored and, especially when Scottish Homes becomes an executive agency, who is responsible for monitoring. Those will be live issues in the housing bill.

Christine Grahame: I had no idea that there was a housing association ombudsman for Scotland until I read the paper from the Scottish Parliament information centre. I wonder how many other people know that there is such a commodity out there. The SPICe paper mentions the limits of his powers—there are some complaints on which you cannot go to him. I am glad that the paper was passed to me and to hear of his existence. I suspect that many other people are not aware that he exists. I see that we will have somebody with wider powers—I might take an interest in the housing bill now.

The Convener: I too will be taking a detailed interest in the housing bill. This is a live issue and it will be interesting to see it being pursued by the Social Inclusion, Housing and Voluntary Sector Committee when it considers the housing bill. The Social Inclusion, Housing and Voluntary Sector Committee needs this information too so, as well as passing it to the Executive, I suggest that we pass it to members of that committee.

Christine Grahame: Yes.

Ms White: It is an important issue, especially in Glasgow, with the massive housing stock transfer. People are asking what will happen. We still do not know a time scale for the winding up of Scottish Homes in its present form. Will that be included in the housing bill? Scottish Homes has a remit here, but it is in a sort of limbo land and we cannot get any answers from it.

The Convener: At the moment, we are in the dark because the consultation document does not make any detailed suggestions. We are told that the draft housing bill will be published at the end of November or the beginning of December this year. It will be considered by the Social Inclusion, Housing and Voluntary Sector Committee in the new year.

Ms White: Will we know exactly what is happening with Scottish Homes then?

The Convener: The detail should be in the bill.

Ms White: Money goes to Scottish Homes from the Parliament. Scottish Homes should be accountable.

The Convener: Yes, it is very much a matter for the Social Inclusion, Housing and Voluntary Sector Committee.

Ms White: Definitely.

The Convener: As I am on the Social Inclusion, Housing and Voluntary Sector Committee, I will take a close interest in the bill. We will ensure that the petitioner is kept informed on the progress of the petition in that committee, as part of its consideration of the bill.

The next petition is from Mr Frank Harvey, on the feeding of cattle remains to livestock. The petition calls on the Parliament to ban the feeding of cattle blood, fat and gelatine to cows, to reduce the risk of BSE transmission. It is prompted by a newspaper report that claims that cattle are being fed cattle blood and other remains, despite the dangers of BSE infection. The report of the BSE inquiry is published this week—there is likely to be parliamentary action on all its implications. I suggest that we inform the petitioner of that and take no further action.

Christine Grahame: I wonder whether the minister commented on that on 25 September, or whether there was any rebuttal by the Executive.

The Convener: I do not think that the Executive responds to every newspaper report.

Christine Grahame: It quite often does.

The Convener: The next petition—PE282—is also from Mr Harvey and concerns body piercing and tattooing. It calls on the Parliament to ban both activities in Scotland, to protect young people from disfigurement or death.

This topic was the subject of a members' business debate on 28 September. During that debate, the Deputy Minister for Community Care, Iain Gray, acknowledged the need to address the possible health risks of body piercing. He said that the Executive recognises the need to assess the effectiveness and adequacy of current arrangements and to consider what alternative arrangements may be necessary. He said that the Executive is committed to conducting a consultation exercise as soon as possible and that that will be set in motion before the end of this year. He undertook to provide the Parliament with a timetable for the consultation process and information on how it will be carried out.

The clerk suggests that we write to the petitioner, informing him of that recent debate and enclosing an extract from the *Official Report*, and that we take no further action. Are we agreed?

Members indicated agreement.

The Convener: The final petition, PE285, comes from Mr Charles Bell Thom and concerns property titles. It calls on the Parliament, through its Justice and Home Affairs Committee, to investigate his property title to clarify what he regards as a confusion in the law.

This is the second petition we have received from Mr Thom on this topic. Following the receipt of his previous petition, the committee sought the views of the Scottish Law Commission and the Minister for Justice. The responses from both expressed the view that the current law on property titles, as it relates to property boundaries, is adequate and that there is no need for an inquiry of the type that is recommended by the petitioner. We agreed that those responses were reasonable and that no further action should be taken.

Mr Thom is disputing not our decision, but the information that was given to us by the Scottish Law Commission and the Minister for Justice. It is up to us to decide what to do with the detailed points that he makes. It seems that Mr Thom is determined to continue to pursue this issue, and it would not be appropriate for the committee to reopen its considerations of the issues that were raised in the earlier petition. We have made a clear decision, based on the views of the Scottish Law Commission and the minister, that no change in the law, in this area, is justified. The petitioner has submitted a further petition in an effort to persuade us to take a different view.

Given that the Executive is preparing a draft bill on title conditions, it may be appropriate to forward this petition to the relevant officials, asking them to consider whether there would be merit in considering further, as part of that process, the points that Mr Thom raises. It is suggested that we

respond directly to Mr Thom, saying that we will take no further action beyond referring the petition to the appropriate committee.

John Scott: For the avoidance of doubt, we should add that it is not our recommendation that that committee act on the petition.

The Convener: No. We will simply pass it to the committee for its consideration.

Christine Grahame: I am of the view that if Mr Thom, who is disputing the reply from the Minister for Justice, has further issues that he wants to raise, he should raise them directly with the Minister for Justice. We have dealt with his first petition and we received a response. He is now disputing that response, which was given officially. He should take the matter up directly with the minister, in correspondence. We took the view that, in some cases, it would be appropriate for petitioners to write to ministers first, before they submit a petition. This is such a case.

The Convener: Mr Thom raised this matter with his local MP, but was not satisfied with the response that he received. The suggested action is that we pass the petition to the Executive officials for their consideration.

John Scott: There would be no harm in that, as long as we do not say that it is our recommendation that the officials act on the petition.

The Convener: I am not suggesting that we tell the officials that we support Mr Thom's position, simply that we pass the petition on to the Justice and Home Affairs Committee. Are we agreed?

Members indicated agreement.

Current Petitions

The Convener: The first item on the current petitions paper is a response to Mr Kevin Hutchens's petitions PE42 and PE43. At its meeting in December, the committee agreed to pass these petitions to the Minister for Children and Education for comment. There then followed a lengthy period of inactivity, during which the Executive passed the petitions to the Department for Education and Employment at Westminster and that department passed them back to the Executive.

We pursued the matter persistently with Executive officials. The petitioner contacted the clerks at regular intervals to inquire about progress. A response was eventually received from the Executive on 17 August, during the summer recess. It was passed to the petitioner on the same day, as he had asked for a copy of the reply to be sent to him as soon as it arrived and wanted to refer to it in the material that he is preparing for a conference on the issues raised in the petition. The petitioner seems to be happy with the response, and the suggestion is that we take no further action. Is that agreed?

Members indicated agreement.

16:00

The Convener: The next petition is PE190, from Mr Peter Saunders. It concerns the handling of a petition submitted against a planning application and calls for the Scottish Parliament to halt the work in progress at John Wood's hospital, Upper Largo and to demand that Fife Council restore the site to its original state.

We agreed that the clerks write to the petitioner to request further clarification of the claims that he made in his petition regarding alleged misleading information. As I indicated to members previously,

"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."—[*Official Report, Public Petitions Committee*, 23 May 2000; c 466.]

The council has now provided details of the information presented by its east planning department that was considered to be misleading. A copy of the information is attached. It relates to what the petitioner considers to be misleading comments about how much of the proposed new building would be visible above a boundary wall.

Should members wish to view them, the clerk has copies of the planning assessment and of the plans that have been referred to in the material

that has been submitted. Members may recall that the petition referred to the fact that the planning authority had ignored the petition against the planning application.

It is not appropriate for the Parliament to become involved in individual planning cases, which are matters for planning authorities. It is suggested that the petitioner be advised that, if they wish to pursue a claim of maladministration on the part of the planning authority, they should contact their local government ombudsman.

Helen Eadie: Having been in a planning authority, I think that that is quite right.

John Scott: I agree.

The Convener: Is that course of action agreed?

Members indicated agreement.

The Convener: The next petition is PE214, from Mrs Anne Dundas, on behalf of various patients—and their friends and relatives—of the Scottish cardiac transplant unit. The petition calls for the Parliament to investigate the current recruitment crisis in the cardiac transplant unit at Glasgow royal infirmary and establish what action will be taken to re-establish the cardiac transplant service as soon as possible.

We passed the petition to the Health and Community Care Committee for further consideration, with the suggestion that that committee consult the Minister for Health and Community Care on the issues it raises. We also agreed to write to the local NHS trust to ask for its comments.

On 20 September, the Health and Community Care Committee agreed to clarify with the Executive the present situation regarding staffing and recruitment at the unit. It sought the Executive's views on the future sustainability of the unit in relation to heart and heart-and-lung transplants. A response has been received from North Glasgow University Hospitals NHS Trust. It provides background information on the events that led to the current recruitment difficulties and on the efforts being made to rectify the situation. A copy is available. It is suggested that the trust's response should be noted and passed to the Health and Community Care Committee, to be taken into account as part of that committee's considerations.

Is that okay?

Members indicated agreement.

The Convener: The next petition is the big one.

Ms White: Just a minute, convener.

The Convener: Sorry, Sandra, do you want to go back to the last petition?

Ms White: No, I mean—

The Convener: The decision is just to send the petition to the Health and Community Care Committee, as it is dealing with it.

Ms White: That is okay. I will wait before I ask questions on it.

John Scott: I have one point on that last petition as regards the action to be taken, particularly about the harvesting of organs. Given foregoing petitions, this matter must be dealt with sensitively at the very least.

The Convener: Do you wish some comment to that effect to be made to the Health and Community Care Committee?

John Scott: In the light of foregoing petitions, we will assume that that committee will deal sensitively with it, but the point is worth noting.

The Convener: Yes, it is perhaps worth pointing out the earlier petition.

We now come to consider how to progress with petition PE227, on Glencoe. At this point, I welcome Mary Scanlon and Fergus Ewing to the committee. Fergus came with the committee to Glencoe on 2 October. Members will see from the papers before us that we have a very large amount of information on the subject of this petition, including the information received on our fact-finding visit to Glencoe last October.

It is suggested that we give careful thought as to whether any action should be taken in respect of the petition. It is clear from the information that has been gathered that the main concerns of the petitioners are the proposal by the National Trust for Scotland to construct a new visitor centre in Glencoe and its proposal for a woodland grant scheme. It is also clear that the proposals have already been given the necessary approvals and that the Parliament does not have the power to reverse those decisions.

Furthermore, it is important to note the following key points in relation to the options that might now be open to us. First, the NTS is a body corporate established under the National Trust for Scotland Order Confirmation Act 1938 and a registered charity. The legal team's advice is that the Parliament has no remit to examine the operation of the National Trust for Scotland or its internal policies.

Secondly, it may be possible for the Parliament to pursue an investigation into the public funding that the NTS receives from the Scottish Executive and/or Executive agencies, either in the form of direct funding or via grant applications. However, such an inquiry would seem to go further than the action requested by the petitioners.

Thirdly, it would be possible for the Parliament to

conduct an inquiry into the economic and environmental impact of the particular developments referred to in the petition on Glencoe. The land-use policies of the NTS in Glencoe and elsewhere in Scotland could also form part of such an inquiry.

We will have to consider carefully whether there is merit in taking further action based on the information that we have gathered. As I have said, as far as I can determine, the petitioner's main concerns are the effect of the proposed developments on the village of Glencoe and what they claim to be a lack of consultation on the proposals. Approvals under the relevant statutory procedures have already been granted for the visitor centre and the woodland grant scheme and there is nothing the Parliament can do to reverse them.

As that is consistent with our line on previous petitions concerning planning and other issues, we must address whether we should ask a subject committee to conduct an inquiry into any of the wider issues. If that is our decision, we will have to be very sure that such action is justified, because subject committees have particularly heavy work loads and we do not want to be seen to be burdening them with further work unless there is a genuine reason for doing so. In reaching our decision, we should also bear in mind the fact that the NTS is a charitable, non-profit organisation.

Christine Grahame: I am unhappy about not doing anything. Several issues arise, including the fact that more and more bodies seem able to do stuff that Parliament can do nothing about. That should not be the case. The Parliament should investigate environmental issues and, in particular, the impact of this development on the environment. Furthermore, I would like the Education, Culture and Sport Committee to consider this issue from the point of view that Glencoe is an historic site; indeed, it could investigate how we deal with historic sites such as battlefields. I think that I am correct that this planning application was dealt with only at a local level, and that when there are issues of national importance—[*Interruption.*] I see that Steve Farrell is about to say something.

The Convener: Steve Farrell has advised me that there are procedures for calling in local planning issues that have a national impact.

Christine Grahame: Well, that is the direction that I want to go in. Any development on such a site of international importance raises environmental and cultural issues. This is not just any old planning application about any old bit of rural Scotland—not that there are any old bits of rural Scotland. As a result, I would like the petition to be passed to the Transport and the Environment Committee and the Education,

Culture and Sport Committee.

Ms White: I apologise to the committee for not being able to make the visit to Glencoe—I was at a funeral.

Christine Grahame has covered my first point. Far too many historic sites are not given the importance they deserve and are built on, sold off and so on. I want the petition to be passed on to the two committees that Christine suggested and for the same reasons.

Secondly, I do not see how the NTS, which receives money from this Parliament, can say that we have no remit to examine its operation. That situation should be investigated. I am not suggesting whether such bodies do a good job or a bad job; the fact is that they seem to be unaccountable to anyone but themselves even though they receive money from this Parliament. Perhaps Steve Farrell could clarify which subject committee we could pass the petition on to for consideration of that matter. If this Parliament is passing on public money to such bodies, it should have some say in how that money is spent.

The Convener: It is not that I am a fount of knowledge on this matter; somebody just whispers the answers in my ear.

The advice is that the only money it receives from central Government is grants for specific purposes, not for its general activities. It is accountable for how that money is spent. We can pursue that matter, but it is not what is at issue.

Ms White: You mentioned three issues, one of which is that we have no remit. Why do we have no remit? It may be possible for the Parliament to investigate the public funding, and it would be possible for the Parliament to conduct an inquiry into the economic and environmental impact on Glencoe. I would like those points to be picked up.

The Convener: Except that the petition does not call for an investigation into how the NTS is funded, so we would be going beyond the remit of the petition if we did that.

Helen Eadie: I, too, apologise for not managing to go on the visit. I had been on an oil rig the previous week, and had fallen and sprained my ankle, so I apologise, but I was crippling around. However, I visited Glencoe during the summer holiday, and had a good look round, so I am not speaking without experience.

If the local community feels strongly about this, one way forward would be to write to the Minister for Transport and the Environment, asking that the planning application be called in, because there are significant economic, planning and land-use issues, as well as issues relating to cultural sites, which Christine Grahame raised. We are sensitive to Scotland's heritage being put at risk, particularly

through tourism. If we are to develop sites, we must do so sensitively. I am not minded to turn round the considered view of a local authority, unless there are bigger issues that a minister should consider. That is why I support the view that the application be called in.

The Convener: I will explain again, because it has been whispered in my ear, that there are procedures for calling in local planning decisions that have national import, but those procedures can be gone through only during the planning process, before approval. This application has been approved, so it is too late to call it in.

Helen Eadie: Okay. It has been suggested that the petition be sent to the Transport and the Environment Committee, but there are problems with that. The Transport and the Environment Committee already has 36 petitions to deal with. It also has the Transport (Scotland) Bill and the water inquiry, so I wonder if we are being realistic in expecting something to come back from that committee.

From my mailbag, I know that there are calls for changes to be made to the planning system. At the moment, an applicant or a developer can appeal against a planning decision by the Minister for Transport and the Environment, but someone who lives in the affected community cannot. The Transport and the Environment Committee is considering that issue.

The Convener: A large number of the 36 petitions that are before the Transport and the Environment Committee deal with that issue.

John Scott: I have a great deal of difficulty with this. No one has mentioned the impact on the community of the jobs that will come from the siting of the new building. That is my big fear. I was one of the few committee members who went to Glencoe. We saw the outline proposals, and I do not think that they will have a huge environmental impact on the site, which is claimed to be of great significance but which has already been destroyed. I do not think that there will be a huge environmental impact at Inverrigan, because the house is off-site. Further, the woodland grant scheme as envisaged will not be hugely detrimental to the character of the area. The major issue is jobs.

I agree that, sadly, our hands are tied in that the time is past for objections.

As far as I understand it, competition has never been a ground for refusing a planning application in the past. None the less, my sympathies are with the local community because there will be job displacement.

I draw members' attention to the Executive summary of the proposed Glencoe NTS visitor

centre economic impact study. The last paragraph, E27, states:

"displacement analysis indicates that these improvements are considered likely to be gained at the cost of employment in local tourism-related businesses that have become increasingly fragile with the decline in visitors to the Highlands since 1996."

That is the key issue.

16:15

Mary Scanlon (Highlands and Islands) (Con): I join other members in apologising for not having been able to go on the visit. Highland Health Board and the health trust had a meeting in Inverness that day, which I attended.

Having witnessed the NTS's behaviour in Glencoe, I do not think that this is the last petition that the committee will receive on the issue. I was shocked yesterday, when I attended the meeting of the parliamentary ombudsman, to learn that we can put in complaints that can be dealt with about Scottish Natural Heritage and the Crofters Commission, but that the NTS is a law unto itself. That concerned me greatly.

I was told, as the convener outlined earlier, that because the NTS is a charity there is no way to appeal. The NTS has enormous control and influence over Scotland's rural and historic sites; it is incredibly influential. It worries me that there is no comeback to this organisation, which I have found to be high-handed and arrogant. It has created enormous divisions in a remote rural community where getting on with your neighbour is almost everything. You see the same people every day when you go to the shops and the post offices. The anger that the NTS has provoked with its bullying, arrogant, high-handed approach and its scant regard for local business has been incredible. Fergus Ewing and I attended a meeting in Glencoe; you could almost cut the anger with a knife. Any organisation that can cause such anger in a remote rural area cannot be trusted.

I appreciate the problems that the committee faces because of the NTS's charitable status. I ask the committee to consider the issue sympathetically and more fully, although I appreciate the work load of other committees. I would be sad if we walked out of this room today letting the NTS get away with its behaviour. Because we do not have redress by means of the ombudsman, convener, I ask that you and the committee give the matter greater consideration. This is the end of the line for local people.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): For several reasons, I urge the committee to agree that there should be an inquiry.

This petition is having an impact not only in

Scotland, but in the international diaspora of the clan MacDonald. I have received many messages of concern, from around the world, about what is seen by some as the desecration of a sacred site. Alistair MacDonald, the petitioner, repeated those comments on the radio this morning.

Like John Scott, I believe that whether the NTS, or anyone else in rural Scotland, should receive further public assistance when the effect would be to kill off existing local businesses that operate in the same sector is an issue of increasing importance in rural Scotland. That point was raised when the Enterprise and Lifelong Learning Committee visited Inverness last November.

The economic impact assessment study, to which John Scott referred, concluded that there would be substantial impact if a grant were to be given to the NTS by the local enterprise company. The local enterprise company has not yet decided on that, so the issue is live. The approach that seems to be being taken as to whether we hold an inquiry is flawed. The thinking is, "Och well, decisions have been taken so it is too late to do anything." Surely the Parliament should be examining decisions that have been taken to establish whether they were right, so that we can learn for the future and decide whether, as Christine Graham suggested, the planning process should be altered to allow local communities and individuals, in rural Scotland in particular, to have a greater say.

A proposal that might be advanced would be to make community councils a statutory consultee. The fact that a decision has been taken to grant planning permission is not a reason for the Parliament not to consider the issue. Indeed, perhaps it would be easier to consider such an issue once the decisions have been taken. Moreover, the conditions to which planning permission has been made subject—such as that relating to the route of the path from the proposed new visitor centre to the village—are still of great contention.

I feel strongly that my constituents expect the Scottish Parliament to stand up for them—to stand up for David against Goliath. There has not been fair or proper consultation. If we fail to recommend that a committee examine the grievances in detail, we will fail the people of Scotland in this very serious case.

The Convener: This committee has the power only to make recommendations. We have to be realistic about what we recommend. It is suggested that we send the petition to the Transport and the Environment Committee on the grounds of the potential damage to the environment that the developments will cause, but it must be remembered that that committee has received 37 petitions from us and has written to

the Procedures Committee to complain about the number of petitions that the Public Petitions Committee has referred to it. There is nothing to stop us sending the petition to the Transport and the Environment Committee, but the likelihood that it will treat it as a priority—let us be honest about this—is very remote.

If it is the view of the committee that we should refer the petition to the Transport and the Environment Committee, that is what we will do. However, the petition may not go much further. We can try to persuade that committee, but it will have other priorities and will keep putting us off—of course, the time scale for the development must be taken into account.

Concerns have been raised about the National Trust for Scotland, which seems to be unaccountable in many ways, having control over many important historical sites, so a better option may be to submit the petition to the Education, Culture and Sport Committee. We will need to take advice on whether we can do that, as the petition did not ask us to.

Helen Eadie: Did you not also give us the option of considering the finance? That is the real key.

The Convener: The problem with going down that road is that we would probably discover that the finance has been given to the NTS by specific grants, which it is spending in accordance with the requirements that have been placed on it by the Parliament. The NTS is probably not doing anything wrong, so there are no grounds for an inquiry. I am quite happy to accept the committee's decision if it wants to send the petition to the Transport and the Environment Committee so that it can hold an inquiry, but that does not mean that that will happen.

John Scott: Sending the petition to the Transport and the Environment Committee is probably the only recourse that we have. That committee can then decide whether the environment and the historic sites are being damaged.

The Convener: I only visited Glencoe and do not understand the details as well as Fergus Ewing and Mary Scanlon do, but I was not convinced that huge damage was being done. There is more potential for commercial damage, but there is a counter-argument to that, as the economic impact study said that the commercial impact of the new visitor centre was exaggerated. The existing visitor centre is of low quality and should not be acceptable in one of the major historical sites in Scotland. We should not support the present facilities as they are not good for tourists.

Christine Grahame: I, too, have an excuse for not going on that visit, as I was at another

meeting.

With respect, convener, it is not up to us to decide whether damage is being caused. I have heard all that has been said about the Transport and the Environment Committee, but we cannot go down that road, as that would mean that we would start to schedule our work according to—*[Interruption.]* Steve, may I finish before you give the convener that wee tap?

John Scott: Our function is to decide to which committee we should refer the petition.

Christine Grahame: Yes. I suggest that we should send the petition to the Transport and the Environment Committee, so that that committee can consider the environmental impact of the proposals. The petition should also land on the desk of whoever becomes the Minister for Transport and the Environment after this week's reshuffle. Who knows—we might have an environment minister to whom we could send the petition. The urgency of the situation should be drawn to the attention of ministers.

We should also send the petition to the Education, Culture and Sport Committee, so that that committee can note its contents, because the petition involves national historic and cultural sites. The NTS is in the special, privileged position of protecting Scotland's heritage, and its operations also seem to be privileged.

If we are rebuffed by the Transport and the Environment Committee, we will have to put on our tin hats.

The Convener: We could send the petition to the Transport and the Environment Committee and ask that committee to be honest, to tell us what priority it is likely to give an inquiry and to let us know if it will conduct an early inquiry. We cannot simply leave the petition. The situation is developing and we must have a response, although it is for that committee to judge whether it is worthwhile—

Christine Grahame: What about sending the petition to the Minister for Transport and the Environment?

The Convener: We could send it to the minister for comment and say that we are also sending it to the Transport and the Environment Committee to ask that committee whether it will conduct an inquiry. We can take both steps.

Helen Eadie: If we are to send the petition to the Minister for Transport and the Environment, we should also send it to the Deputy Minister for Culture and Sport: historic buildings are in Rhona Brankin's remit, rather than Sarah Boyack's.

The convener is right. We must ask the Transport and the Environment Committee what it

will do. I am a member of that committee and I know about its mammoth work load. To do otherwise would be unrealistic and unfair, as it might raise people's expectations. We should consider whether a different route could be found to achieve the same objective.

The Convener: I am advised that the official route is for the petition to be sent to the relevant department, because civil servants brief ministers on the implications of petitions.

Fergus Ewing: It might be more appropriate to send the petition to the Rural Affairs Committee. While the petition is fairly wide-ranging, it refers to

"an increasingly common complaint arising from the growing conflict in Scotland between small rural communities and powerful bureaucratic conservation groups".

That seems to give the Rural Affairs Committee a clear locus.

However, members seem to have the view that the Transport and the Environment Committee should consider the petition initially. If that committee decides that the petition is not within its remit or that it is too busy to conduct an inquiry, the Rural Affairs Committee could be considered as a follow-up.

The Convener: We could do that. We could ask the Transport and the Environment Committee to consult the Rural Affairs Committee for its views on the petition.

Fergus Ewing: Could the petition also be sent to the Minister for Rural Affairs?

The Convener: We could ask the Transport and the Environment Committee to consider whether it might be more appropriate for the Rural Affairs Committee to deal with the petition.

Fergus Ewing: If we are to write to ministers, could we also consult the Minister for Rural Affairs? That would follow Helen Eadie's suggestion.

The Convener: At this rate, we will be writing to everyone in the Scottish Parliament. We must try to focus our activities.

John Scott: It is for the Transport and the Environment Committee and the Rural Affairs Committee, if they so wish, to make recommendations about how such issues should be dealt with in future.

To address the bigger issues that were raised by Fergus Ewing and Mary Scanlon, if those committees believe that the petition might require changes to the legislation, it would be up to them to pursue that. According to our present structure, that work is not within the remit of the Public Petitions Committee. One must be realistic and accept that the NTS has done nothing illegal, as

far as I am aware, in order not to raise expectations unduly.

The Convener: No. The NTS has acted within the legal procedures that are available to it and has been given proper planning approval for the Glencoe proposals.

John Scott: The situation is, unquestionably, unhappy.

The Convener: I agree.

Are we agreed that, in the first instance, the petition should be sent to the Transport and the Environment Committee? We will ask that committee to inform us at an early stage whether it intends to carry out an inquiry in line with that requested by the petitioners. We will also ask that committee to consult the Rural Affairs Committee, as part of its consideration of the petition.

At the same time, we will inform the Minister for Transport and the Environment of the action that we are taking on the petition and ask for her comments through the department. We will also write to the Scottish Executive education department, asking for its comments on the role of the NTS in controlling so many important historical sites in Scotland.

John Scott: We were also going to write to Rhona Brankin.

The Convener: Yes, we will write to the minister as well.

16:30

Christine Grahame: We do not want to tread on anyone's toes, but in the letter to the Transport and the Environment Committee, we might ask whether the committee could deal with the matter quickly. However, the petition might be more appropriate to the Rural Affairs Committee, which might have an agenda that would allow the matter to be dealt with in the near future. The issue must be addressed quickly. This may sound like a stupid question, but when a Parliament committee initiates an inquiry does that automatically stop external procedures?

The Convener: It cannot stop a planning application. The NTS already has planning approval.

Christine Grahame: So we could be holding an inquiry while the development was under way. The matter is extremely urgent.

The Convener: That is why we need an early indication from the Transport and the Environment Committee of whether it will take heed of the petition.

Ms White: I am being far too polite—I have had my hand up for ages. I do not disagree with the

comments that have been made. I wanted to send the petition to the Rural Affairs Committee in the first place, but I will follow the wishes of the rest of the committee. The National Trust for Scotland does not fall within the Parliament's remit, but that would not prevent a member from raising the issue in a members' business debate.

The Convener: Not at all. Members can raise whatever issues they like for such debates.

Fergus Ewing: I am grateful to the committee for considering the matter. In view of your recent remarks, convener, it is not surprise that you should side with David, rather than Goliath.

The Convener: We will have to wait and see who the real Goliath is.

The next response that we have received is on PE228 from the Anderston Tenants Association, which petitioned us on Scottish Homes and its double-glazing programme in the Anderston area. I have received a reply from Scottish Homes. It is clear from the letter that Scottish Homes has made some progress in its double-glazing programme in Anderston. It has included such work in its current capital programme and the one for next year. The letter indicates that discussions are taking place with the Scottish Executive on what will happen in relation to the double-glazing of the remaining housing stock after the proposed creation of an executive agency. Scottish Homes confirmed the position on its programmed work with the petitioner. It is suggested that we pass a copy of the letter to the petitioner and that no further action be taken.

Is that agreed?

Members indicated agreement.

The Convener: The final petition is PE246 from Kildalton and Oa community council, Kilarrow and Kilmeny community council, the Kilchoman and Portnahaven council and Councillors J Findlay and R Currie. The petition deals with the designation of south-east Islay skerries as a special area of conservation.

I have received a letter from the chairman of Scottish Natural Heritage, voicing his concern that SNH was not given an opportunity to explain its position on the issues raised in the petition. Members have a copy of that letter. The letter provides information on the consultation process carried out by Scottish Natural Heritage on the designation proposals and counters the claim made by the petitioners that that process had been inadequate. SNH has also provided background information on the designation of special areas of conservation and what such designation means for the areas that are affected. We are asked to note the contents of the letter in our consideration of the petition.

John Scott: What is our course of action?

The Convener: We will pass a copy of the letter to the Executive. We are waiting for the Executive to reply to the points that were raised in the petition.

John Scott: The letter says that

“The SNH’s role is advisory.”

However, the chairman goes to some lengths not to say what its advice is. That point is crucial to the whole issue. It is the advice that SNH has already given that is causing the ruction.

The Convener: I assume that the Executive will have to make clear what that advice was when it responds to the petition.

John Scott: Okay.

The Convener: I am sure that the Executive has a copy of SNH’s letter, but we must pass it on as we have received it officially.

The clerk tells me that we have not asked for a response from the Executive; we have asked the Executive to take the petition into consideration as part of the consultation process. Perhaps we should ask the Executive to inform us of the outcome of that process. Is that agreed?

Members indicated agreement.

John Scott: I am sorry to go on about this, but this petition is the tip of an iceberg. A much wider problem is being raised. I must declare an interest as I have lodged a motion on the matter. Somewhere approaching a million acres of Scotland have been designated as SACs during the past three months—without consultation and, by and large, without any scientific basis. That has been done merely to use up quota because it appears that more land should have been designated over the past 20 years. Because designation has not happened, it is now being done in a rush, arbitrarily and without scientific back-up.

Christine Grahame: Has the Rural Affairs Committee dealt with this?

The Convener: No. We agreed to copy the petition to the Minister for Transport and the Environment, asking that it be considered as part of the consultation process on a south-east Islay skerries special area of conservation.

The committee also agreed to draw the minister’s attention to the views, expressed by committee members in the *Official Report* of the meeting, that local opinion on this matter should be taken into consideration.

Christine Grahame: I am reading that note now.

The Convener: We can do the same with the

Official Report of this meeting, so that John Scott’s comments, in particular, can be drawn to the minister’s attention.

John Scott: As I recall, the petition shows that every local community appears to be against the subject of the petition. Is that correct?

The Convener: Yes, those are the names I tried to read out earlier: Kildalton and Oa community council, Kilarrow and Kilmeny community council and the Kilchoman and Portnahaven community council, as well as Councillors Findlay and Currie.

Christine Grahame: Perhaps we could ask the minister to comment on John Scott’s comments on the point raised in Scottish Natural Heritage’s letter of 30 September. It says:

“The designation of SACs is required to meet the UK’s commitments under the European Union’s Habitats Directive”.

That is the point: what is the motive or purpose here? Is the designation justified, or does it just make up the numbers?

John Scott: It is to make up the numbers.

Christine Grahame: Perhaps we should ask the minister to comment on that.

The Convener: Will it be clear from the *Official Report* what we are asking?

Steve Farrell: Yes.

John Scott: I think you would be asking Sarah Boyack—

The Convener: Yes, but if Sarah Boyack reads the *Official Report*, will it be clear to her what we are asking?

John Scott: We want her to comment on the imposition of the designations in a general sense and on this one in particular.

The Convener: I will ask her to respond to John Scott’s comments in particular, so that the committee can be better informed on this matter.

Christine Grahame: Do we have any other business?

The Convener: Have we finished our discussion on the petition?

Members indicated agreement.

The Convener: The next item is the convener’s report.

Christine Grahame: Before we consider that item, can I raise a couple of points about the progress of existing petitions?

The Convener: Of course.

Christine Grahame: Petition PE39, from Mr George B Anderson, calls on the Scottish

Parliament to debate section 87 of the Environmental Protection Act 1990 with a view to making the serving of fixed penalty fines to litter offenders mandatory. The notes on the progress of petitions say:

"The Committee also agreed to write to CoSLA to commend the experience of Angus Council, which has received a reduction in littering from a limited joint deployment of a litter warden and a police officer. The Committee noted that Murray Tosh MSP intended to approach the Minister on the subject of local authorities being permitted to keep income generated from litter fines."

Do we have any more information on that? Can we follow it up?

On petition PE102, from James Ward, did the clerk receive a letter from the clerk to the Justice and Home Affairs Committee? I seem to remember that one of the points we raised about sequestration was to do not with improving the information available to individuals or whether it was compatible with the European convention on human rights, but whether the jurisdiction for recall of a sequestration could be moved from the Court of Session to the sheriff court. At the moment, it is possible to petition for recall only at the Court of Session. That point is not made in the notes.

The Convener: That was taken directly from the minutes.

Christine Grahame: Was it taken from the minutes of the Justice and Home Affairs Committee? Can that point please be checked, as it is important?

The Convener: Yes we can do that.

Convener's Report

The Convener: The proposal to hold a meeting in Glasgow as part of the pilot programme of Monday meetings has been approved. The meeting will be held on Monday 4 December.

Christine Grahame: Do you know when we will know about any changes to the committees?

The Convener: No, I do not. That is a matter for the Parliamentary Bureau.

It is proposed that all petitions received from the Glasgow area be held over until that meeting on 4 December. A news release giving details of the Glasgow meeting will be issued shortly, to give advance warning to potential petitioners who we may see there.

Ms White: They might include Frank Harvey.

The Convener: We may meet the legendary man himself.

Ms White: I meet him every Monday.

The Convener: I thank members for their attendance and declare the meeting closed.

Meeting closed at 16:40.

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