

PUBLIC PETITIONS COMMITTEE

Tuesday 7 November 2000
(Afternoon)

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CONTENTS

Tuesday 7 November 2000

	Col.
NEW PETITIONS	725
CURRENT PETITIONS	730
CONVENER'S REPORT	742

PUBLIC PETITIONS COMMITTEE

16th 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)

*Dr Winnie Ewing (Highlands and Islands) (SNP)

*John Scott (Ayr) (Con)

*Mrs Margaret Smith (Edinburgh West) (LD)

Ms Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Roderick I McLean

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Jane Sutherland

LOCATION

The Hub

Scottish Parliament

Public Petitions Committee

Tuesday 7 November 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:04*]

The Convener (Mr John McAllion): Welcome to the 16th meeting this year of the Public Petitions Committee. I have received apologies from Sandra White and Pauline McNeill, who are unable to attend today's meeting. Margaret Smith has indicated that she is likely to be late. I expect Helen Eadie to join us shortly.

Members will be aware that on 1 November Christine Grahame resigned from the committee. We take this opportunity to put on record our thanks to Christine for her excellent contribution over the past year and a half to the committee's work. She will be sadly missed.

I am pleased to say that in Christine Grahame's place we can welcome Dr Winnie Ewing as a new member of the committee. Before I give her an opportunity to speak, I ask her to declare any interests that might prejudice her ability to participate in the work of the committee in an impartial manner.

Dr Winnie Ewing (Highlands and Islands) (SNP): The only thing that I can think of is that I am a member of the Law Society of Scotland.

The Convener: I welcome you warmly to the committee.

Dr Ewing: I was always attracted to this committee but, for obvious reasons, I was appointed to the European Committee. I have asked to serve on this committee because it gives the public an opportunity to appear before us to make their points. That is wonderful. I was a member of the European Parliament's Committee on Petitions, which also took evidence from people. However, it was so distant and so expensive to travel to that we did not get the amazing variety of people who appear before this committee. I used to lecture in constitutional law, and we were always proud of the fact that people had the right to petition the old Scottish Parliament on their rights or grievances. In a way, we are carrying on a fine democratic tradition. I am really looking forward to serving on the committee. Although I have been reshuffled, I hope that that does not happen to the convener, as he is part of the committee's attraction for me.

The Convener: Thank you very much. I think that I will like having Dr Ewing as a member of the

committee.

Today we have an unusual agenda. Normally I begin these meetings by warning members that we have a large number of petitions to deal with. Unfortunately, today there is only one petition before the committee. That is unique in the committee's history. I suspect that it has something to do with the fact that in the near future we intend to meet in Glasgow. Petitions emanating from Glasgow are being held back, to give Glasgow petitioners a better opportunity to attend the meeting at which their petition is considered.

New Petitions

The Convener: We have received a petition from Mr Roderick McLean, on the subject of injuries sustained in Crown service. Mr McLean is here and would like briefly to address the committee. Normally there is a three-minute time limit on petitioners' speeches, but today we will waive that. You may take as much time as you want to address the committee, Mr McLean.

Mr Roderick I McLean: Thank you very much. I intend to support my petition in the form of questions and musings on the issue that it raises: service with Her Majesty's forces resulting in noise-induced sensorineural hearing loss—NISHL—of less than 20 per cent. From 7 January 1993, the condition has been pension barred.

I served in the Royal Air Force from 1948 to 1950, during which time I incurred NISHL of 14 per cent, as the Ministry of Defence has admitted. That was the result of exposure to jet engine noise. The jet engines would start up suddenly, wailing and shrieking loudly, like banshees. No warning was given and no protection was provided.

What is the cause of NISHL and how is it identified? The condition is the result of exposure to loud noise, such as engine noise or gunfire. The cochlear hair cells and nerve fibres of the inner ear can be damaged, which can cause deafness. The official view is that removal from the noise source means that the hearing loss does not get any worse. However, the damage is done.

The damage can be identified by a medical procedure called an audiogram and is expressed in categories as a percentage of deafness—1 to 5 per cent, 6 to 14 per cent, 15 to 19 per cent and 20 per cent and over hearing loss. The audiogram is based on readings for both ears from 0 to 120 dB and more than 1, 2 and 3 kHz. Deafness of less than 20 per cent is non-pensionable under statutory instrument SI 1992/3208—the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983—which came into force on 7 January 1993. NISHL caused while in service was settled with a gratuity, the amount of which was determined by the hearing loss band below 20 per cent.

Why should this matter be taken up now? The Government has a clear duty of care to service personnel but, in 1996, the then Minister of State for Social Security, Lord MacKay of Ardbrecknish, called NISHL of less than 20 per cent a relatively minor disablement. He said that the concentration of limited resources was the right way forward and that the decision to abolish gratuities for NISHL of less than 20 per cent was not only the right thing

to do, but in the best interests of war pensioners generally. Try living with that. There is no duty of care or responsibility on the part of the Government for hurt caused while in the services, and no human rights regarding protection. Are resources limited in the UK now? In the final analysis, who defends the generators of those resources?

Where is the starting point to right the wrong? It is here, and I hope that I sound convincing enough to stimulate the initial steps to remove the insidious statutory instrument SI 1992/3208 and to ensure that hurt caused while in the services is recognised on an equal footing with other hurts, as NISHL of less than 20 per cent is the only hurt that is not recognised for pension purposes.

Convener, I hope that you and the committee are convinced that this petition is right and that you can start to take the initial steps to rectify the wrong. With that in mind, and having had the temerity to raise the matter with you at all, I wish to end on a traditional, and particularly Scottish, note:

"Now 's the day, and now 's the hour".

Thank you for listening to me.

The Convener: Members may now question Mr McLean.

Dr Winnie Ewing: I missed a bit of what you said, because I was having a word with the clerk. You mentioned a gratuity. Did you get one? Was there a gratuity for people with NISHL of less than 20 per cent?

Mr McLean: No. I have been through the gamut, ending in a tribunal last November in Melville Place in Edinburgh. The doctors said that it was a tremendous pity that I had not contacted them prior to 1993.

Dr Ewing: You are in a particular category, and your disability is a degree of deafness. Do you know of any other people who are to some extent disabled and who have been barred by this statutory instrument?

Mr McLean: Yes. It is quite common.

Dr Ewing: But do you know of other types of disability that have been barred?

Mr McLean: This is the only form of disability in the services that is pension barred under 20 per cent.

Dr Ewing: The only form?

Mr McLean: That is what I have been told.

Dr Ewing: Are you faced with the difficulty that people say, "We all get deaf as we get older"?

Mr McLean: My hearing has been measured by an audiogram by the Ministry of Defence, which has determined that I have an NISHL of 14 per

cent. Any other form of deafness is age related.

Dr Ewing: Can doctors distinguish between NISHL and deafness caused by advancing age?

Mr McLean: They can tell from the audiogram.

14:15

Dr Ewing: What effect does your hearing loss have on your life?

Mr McLean: My wife would be better able to answer that than me. People who are hard of hearing rely tremendously on teletext. At social gatherings and on occasions when people are speaking all at once, I simply cannot hear, whereas when I can watch someone speak, I have a fairer chance of picking up what they are saying.

Dr Ewing: The cause of deafness is one of my special interests. Have you gone to lip-reading courses and so on?

Mr McLean: Not so far, although I have only recently joined the Royal National Institute for Deaf People. I find its literature very persuasive, so I may take up the options offered. At the moment, like most people in my situation, I do not manage too badly when I have a direct view.

Dr Ewing: Do you have any information about how other countries in the European Union treat people who have lost hearing as a result of serving in the armed forces?

Mr McLean: I like to think that, if I had been called up to the Luftwaffe, the story might have been different. All the armed services tend to treat their personnel in much the same way.

John Scott (Ayr) (Con): When did the injury occur?

Mr McLean: Between 1948 and 1950. I have asked the consultants on more than one occasion why it has taken me so long to find out that I had hearing damage. The answer is that the good ear always masks the bad ear—it runs ahead, in a manner of speaking, of the bad ear and compensates for it. It is only when your hearing is measured by audiogram that the nuances make themselves apparent.

John Scott: Had you applied for compensation before 1993?

Mr McLean: No.

John Scott: Had you done so, might you have been eligible for compensation?

Mr McLean: Yes. As I have mentioned, when I went to tribunal I went through the whole gamut. The doctor said that it was an awful pity that I did not apply prior to that date because I could have been offered a pension. I am raising this subject now because this is happening all the time. If

someone is hurt in service, they should be compensated.

John Scott: Have you pursued the matter through your MP?

Mr McLean: Mrs Margaret Ewing has been kept advised. In my file of correspondence, which recently attained its 100th enclosure, are the 24 letters that have been exchanged between Mrs Ewing and me.

The Convener: Mr McLean, do you understand that this is a matter reserved to Westminster?

Mr McLean: Yes.

The Convener: The Scottish Parliament does not have the power to alter the statutory instrument.

Mr McLean: That is right. I have been careful in the wording of the petition and in correspondence with Mrs Ewing—I want to establish whether steps could be initiated.

The Convener: By steps, do you mean anything that this Parliament—or the committee—can do to help you?

Mr McLean: Yes.

The Convener: As members have no further questions, let me thank Mr McLean for speaking to the committee.

We will now discuss the petition. Members will be aware from the suggested action that we cannot do anything directly to change the statutory instrument or the arrangements that are in place. However, to help the petitioner, it could be agreed that I write to the relevant UK Government minister, setting out the case that Mr McLean has presented and asking for a response on how Mr McLean can raise this issue with the relevant Westminster department other than through his constituency MP.

John Scott: This is a fundamental issue, as it concerns injuries that have come to light only after they have been, in effect, time barred. If there is no way of dealing with such cases, perhaps there should be.

Dr Ewing: This raises the spectre of the European convention on human rights, with which we are gradually becoming acquainted—sometimes with horror. Following Mr Scott's point, I think that there may be a human right involved. It is not the petitioner's fault that he did not make an application, as he did know about the injury. When it came to light, he took reasonable steps. In addition to doing what the convener has suggested, we could consider the European aspects of the case. I am happy to produce a note on those for the committee.

John Scott: I have written to the European ombudsman on another case and received the same response, which was that these cases were in effect time barred and that, as the law stood, there was little or nothing that could be done. The issue was entirely different, but the problem was similar.

Dr Ewing: Perhaps the arrival of the European convention on human rights, which seems able to interfere in all kinds of way that we never dreamed of, might make a difference.

The Convener: In my letter to the UK Government minister I could ask the minister to address the implications of the Human Rights Act 1998 for such cases. Mr McLean made the point that it is only this kind of disability that has been barred from any kind of grant. That may indeed constitute discrimination under the act.

Dr Ewing: We do not know how many people could be involved. I cannot imagine that the floodgates will open if this petitioner were to be given some consideration.

The Convener: I do not think so. It is certainly harsh for people such as Mr McLean who find themselves in these circumstances. The suggestion is that I take this matter up with the relevant UK Government minister, raising the implications of the European convention on human rights, and that we respond to the petitioner thereafter. Is that agreed?

Members indicated agreement.

Current Petitions

The Convener: Members will see that we have received a series of responses to petitions. The first response relates to petition PE115 on air traffic over Edinburgh. Members will remember that, at our meeting on 6 June, we considered the responses that we had received from Scottish Airports Ltd and the Edinburgh airport consultative committee, which gave us comprehensive details of aircraft movement at the airport and the steps that are taken to monitor and reduce noise in and around the airport. We agreed then that, as those responses appeared to answer the issues that were raised in the petition, no further action seemed necessary. However, the committee agreed that, before responding to the petitioner along those lines, it would seek confirmation that the Transport and the Environment Committee was content with that approach. That committee considered the petition at its meeting on 6 September and agreed that it was content with the proposed response by this committee to the petitioner. It is suggested that the clerk should now write to the petitioner indicating that no further action will be taken on the petition. Is that agreed?

Members indicated agreement.

The Convener: Petition PE118, from Dr Ronald Crawford, is about water charge increases. Members will recall that the petition related to the huge increases—35 per cent this year—in North of Scotland Water Authority charges to domestic customers. At our meeting on 14 March, we agreed to ask both the Minister for Transport and the Environment and NOSWA to respond directly to the petitioner on the issues that were raised. A response from NOSWA was received and was noted by the committee on 24 April. The minister's response, dated 18 October, enclosing a copy of the department's reply to the petitioner, has now been received. It is suggested that we note the response and agree to take no further action on the petition. I note that the department wrote to the petitioner on 3 July but did not write back to us until 18 October. That is quite a gap.

John Scott: The letter also says:

"We intend to consult on this in the summer."

It would be interesting to find out what that consultation yielded, examine it and pass it to the petitioner.

The Convener: The minister responsible is no longer Sarah Boyack, as Sam Galbraith is now the Minister for Environment, Sport and Culture.

Dr Winnie Ewing: I was at an all-party meeting in Inverness. It was the angriest meeting that I have ever been at—and I have been at some

angry meetings in my time. It was packed; about 500 people were turned away. All kinds of people were present. They were not especially political; they were from community councils and small businesses. Every kind of body that you could think of was represented.

We know about the state of the water arrangements, which are Victorian. The sewers are the same. We know that there is enormous need for investment, but people were angry about the increased bills; they said that it was like being told to pay off their mortgage in two years when they thought that they had 20 years. The other, perhaps more important, point was about relief for poorer people.

The response was received on 18 October. As Mr Scott said, there has been consultation over the summer, so we could ask for some more comments.

The Convener: We could, although when Sarah Boyack had responsibility for this issue, she promised that there would be a statement in Parliament in the autumn. I do not know whether 6 November counts as the autumn in Scotland these days—it is hard to tell—but the Executive certainly intends to make a statement on this issue. I do not know whether we should wait until the statement is made to Parliament.

Dr Ewing: We should ask when the statement will be made.

The Convener: Do we agree to write to the minister and ask him when the statement will be made on the review of the charging arrangements and help for people on lower incomes?

Members indicated agreement.

The Convener: Petition PE191 is from Irene Yardley, on behalf of various health care workers at Glasgow royal infirmary. Members will remember that we received a comprehensive response from North Glasgow University Hospitals NHS Trust, which indicated that the trust recognised the problems that the health care workers had raised in respect to security in the accident and emergency department and set out the actions that it intended to take in response.

We agreed to pass a copy of the trust's response to the petitioners to ask whether they were content with it. They have now replied. They indicate that they are not content. They state that the staff have not been invited to participate in meetings on those issues. They have asked to meet this committee again to discuss the issues. We must consider whether to invite the petitioners to attend the next meeting of this committee to provide more details of their concerns, or whether it would be more appropriate to write to the trust to ask for its comments on the staff's claims that they

were not involved in discussions on safety issues. We could suggest that it might be in the interests of all the parties involved if such discussions were as inclusive as possible. It is open to the committee to decide how to pursue the matter.

John Scott: We should write to the trust again to ask for its comments on the allegation that it has not consulted adequately. We can invite the petitioners to attend another meeting to address us after we receive the trust's response if it appears to be inadequate.

The Convener: That is okay with me. We should ask the trust to give us an early response—in time for our next meeting, if possible—so that the matter does not lie around for too long.

John Scott: I remember the petitioners clearly. This is obviously an important matter, which must be resolved quickly.

14:30

The Convener: Petition PE239, from Mr Donald Easton, is about the national health service pay review body. The petition calls on the Scottish Parliament to direct the Scottish Executive to take action to include biomedical scientists working in the NHS in the NHS pay review body. At our meeting on 4 July, we agreed to copy the petition to the Minister for Health and Community Care, asking for her comments.

We have received a response from the Executive; members have a copy of that with their papers. The letter provides background on the current pay negotiation machinery for NHS staff, which does not include biomedical scientists. However, the letter indicates that all four UK health departments, including the Scottish Executive health department, are currently engaged in negotiations with the main staff representative bodies on proposals to modernise the NHS pay system. As part of those negotiations, consideration is being given to extending the coverage of the nurses pay review body to include further groups of highly qualified staff. Biomedical scientists will be one of the groups considered. The Executive has offered to provide further details of the outcome of negotiations once those have been concluded.

That seems a reasonably positive response. It is suggested that we copy it to the petitioner and indicate that, in the light of the current negotiations, no further action will be taken. However, it is also suggested that the committee take up the Executive's offer to provide an update on the negotiations. That information could be passed on to the petitioner in due course. Do members agree to those suggestions?

Members indicated agreement.

John Scott: That appears to be a success.

The Convener: Another success for the Public Petitions Committee.

The next letter relates to petition PE265 from Mr George McAulay on behalf of the UK Men's Movement, on false rape allegations. At our meeting on 26 September, we agreed to seek further information from the Minister for Justice on the anonymity both of victims and of accused in rape cases. It was also agreed to take no further action in relation to the other issues raised in the petition.

We are still waiting for a response from the minister. However, we have received a letter from Mr Brian Monteith, MSP, who spoke in support of the petition at the meeting. Mr Monteith is concerned that members of the committee questioned the petitioner on the issues that the petition raised, rather than simply determining the most appropriate place for the petitioner to present his evidence. Mr Monteith says that he hopes that the Justice and Home Affairs Committee will have an opportunity to take note of the petition, even if it chooses to take no action on it.

It is suggested that I write to Mr Monteith, making it clear that the Public Petitions Committee considers it to be entirely proper that it should question petitioners where appropriate, so that members can establish whether there is merit in further action being taken in respect of petitions. The response would make it clear to Mr Monteith that it is for this committee to decide whether any subject committees should be copied petitions for information and that this committee will take a view on the petition when a response is received from the Minister for Justice. Are there any comments?

Dr Ewing: The proposal is that there should be a register of false allegations. I realise that rape is a very serious crime, but other crimes are also serious. For example, when someone is accused of fraud, that can end their career and ruin their life. However, we do not suggest that there should be a register of false accusations of fraud. That is a dangerous route to follow.

The Convener: That was the view taken by the committee when we discussed the matter. We decided to take no further action on that part of the petition, but to write to the minister on the question of anonymity for the accused as well as the accuser.

Brian Monteith attended the meeting and did not like the way in which the committee conducted its business. However, we are not here to please individual MSPs; we are here to decide how best to dispose of petitions. The suggestion that I write to Mr Monteith is a good one.

Helen Eadie (Dunfermline East) (Lab): When it comes to sending petitions to other committees, we are damned if we do and damned if we do not. We are told off when we send petitions direct to subject committees and yet we are hauled over the coals when we try to glean more information from petitioners. We did the right thing. Our job is to elicit as much information as possible to allow us to make an informed decision. Thereafter it is down to our colleagues in other committees to play their part. I do not accept what Brian Monteith says in his letter. That is not a party political point—I would say it of any member.

The Convener: There is no party politics in the Public Petitions Committee.

Petition PE273, from the Friends of Durriss Forests, is on four-by-four off-road driving in public forests. At the meeting on 26 September, we agreed to seek the views of the Forestry Commission on the issues raised in the petition.

A letter was sent to Forest Enterprise, which is responsible for the management of Scotland's public forests, and a response has now been received from its chief executive, Bob McIntosh, a copy of which is attached. His letter makes it clear that four-by-four driving in the forest is a commercial activity operated by Land Rover Highland Experience. Making the most of such commercial activity and using private capital, where appropriate, is an objective of Forest Enterprise's corporate plan. The activity has received planning permission for an initial period of 12 months. Approval exists for the use of 18 km of tracks; Forest Enterprise retains the right to withdraw tracks, should there be signs of deterioration. The project is strictly monitored, with speed limits and restrictions on the number of vehicle movements and routes. Vehicles must always give way to pedestrians, cyclists and horse riders.

Forest Enterprise is considering whether to extend facilities for the operation of the Land Rover project and has stated that it wishes to take a balanced view on how that would relate to its full range of management objectives and the impact on forests. The letter states that Forest Enterprise is already aware of the petitioners' opposition and will take their views into account. However, the chief executive says that, having visited the site, he views this as an

"apparently harmless activity which takes place within a small part of a very large forest area."

He continues:

"It is difficult to understand why it is such an issue for the Friends of Durriss Forest."

It is worth noting that Forest Enterprise's reply addresses the four-by-four driving activity in Durriss forest only. Although it is a fair assumption that

four-by-four driving activity in Durriss forest has prompted the petition, the petition calls for action to be taken in relation to that activity in any of Scotland's public forests. We need to consider whether the response from Forest Enterprise is satisfactory or whether a fuller response covering its policy in this matter across the whole of Scotland should be requested. Alternatively, we could send the petition to the Rural Affairs Committee for further consideration.

Helen Eadie: Might we seek advice from an external agency, such as Scottish Natural Heritage? Sometimes we think that we are doing something that is harmless, but advice from experts suggests otherwise. That advice also needs to be set against what other people have said.

Dr Ewing: I must ask a terrible question: where is Durriss forest?

The Convener: I do not know. I know that it is in Scotland.

Dr Ewing: I should know, as it may be in the area that I represent. If it is, and I did not know about it, I would feel ashamed.

The Convener: It is in Aberdeenshire.

Dr Ewing: Thank goodness for that.

John Scott: I take the view that recreational and training facilities should be encouraged in these areas. We are talking about Land Rovers travelling at 15 mph on forestry roads and at 8 mph off the road. That is not hugely environmentally damaging. Planning permission has been given for this activity on the land in question. The land belongs to the Forestry Commission, which chooses to allow people to have access to it. I am all in favour of people of all sorts having access to this type of land, if all the requirements are being met. I am not sure what the petitioners' problem is. I do not have the petition in front of me, but I cannot see why this is such a huge issue.

Helen Eadie: By and large, I sympathise with that view. The only thing that troubles me is that there may be sound reasons that we need to consider for objecting to the activity.

John Scott: It might be interesting to hear SNH's view on the issue.

The Convener: We can copy all the correspondence that we have received to Scottish Natural Heritage and ask for its comments on the implications of this activity for Scotland's countryside as a whole.

Dr Ewing: Permission was given for similar activities to take place in forests in Moray, involving not four-wheel-drive vehicles but motorbikes. I have attended such events, which seem to be very popular. They bring the public into

the forest, which is a good thing, and they do not seem to do any damage. They take place only about once a year. There is no indication in the documentation of how often these activities take place in Durriss forest.

The Convener: It would do no harm to seek the view of Scottish Natural Heritage. Do members agree to that suggestion?

Members indicated agreement.

The Convener: Petition PE283 is from Geraldine MacDonald, on behalf of the Scottish Organisation Relating to the Retention of Organs. The committee will remember from our previous meeting that the petition called on the Parliament to initiate a public inquiry into the practice of organ retention at post mortem without the appropriate parental consent. We know that the petition referred to the Executive's decision to establish an independent review group and to review past practice and the law on this matter. Yesterday the Executive named the members of that independent review group.

At our meeting of 24 October, we were told that the clerk had written to the Executive asking officials to provide the committee with the background to its decision—in particular, with an explanation of why an independent review was favoured over a public inquiry. Information on the remit of the review group and the likely time scale for the report was also requested.

A response has now been received from the Executive, a copy of which members have before them. It indicates that the Minister for Health and Community Care has met a range of parents organisation, including the Stillbirth and Neonatal Death Society, the Association for Children with Heart Disorders, the Scottish Cot Death Trust and SORRO, which is the organisation that submitted the petition. The letter says that, from discussion in these meetings and from correspondence from parents, the Executive felt that a full public inquiry would be disproportionate and distressing.

The Executive letter also provides details of the remit of the independent review group that is to consider the matter. The group will review past practice in the matters of post mortem consent, organ retention and the disposal of organs in hospitals across Scotland. It will also develop guidance in the form of a code of practice and report on all those aspects of its work by the end of January 2001. It will then consider the current law in relation to consent for the removal and retention of organs and the ownership of human tissue, with recommendations to be announced in autumn 2001. The minister believes that the approach adopted is appropriate, proportionate and sensitive to the range of parental views expressed.

We need to reach a view on whether any further action should be taken in light of the response from the Executive. This is an emotive issue, and the minister seems to have had to balance the differing views of various parents and parents organisations before deciding to establish an independent review group. It is clear that, whatever decision she reached, not all those involved would be content or happy. The difficulty for us is that, should we decide to ask the Health and Community Care Committee or the Executive to consider whether a public inquiry should be initiated, as requested by the petitioners, that would be unacceptable to other parents organisations that do not support such action. It is therefore suggested that it would be inappropriate for the committee to pursue such a course of action.

We are invited to consider whether we should respond to the petitioners on those terms or pass the matter to the Health and Community Care Committee for further consideration. This is a difficult issue, so we should take time over it.

Helen Eadie: It seems that the minister has met representative organisations and a view has been arrived at after consensus for a particular approach has been built. Therefore, I suggest that, as the recommendations highlight, if we went against what has been decided, we might end up alienating people who take a different view. In a sense, the issue comes back to some of the principles that we have adopted in cases to do with agencies such as local authorities. In those cases, we have tried to keep a safe distance from decisions that have been taken elsewhere.

I am aware that the issue is highly emotive and I think that it would be best to await the outcome of the review group's work, which is well under way. To disrupt that work would be counterproductive for everyone who need urgent answers to some of the serious issues that have been raised. I might be wrong, but I think that another route can be taken at the end of that process if people are still not happy.

John Scott: Does that not run the risk of making people go through the inquiry process twice? Given that the review group was announced only yesterday, is it likely that its work is, in fact, well under way? In the interests of open government, which we hear so much about, I believe that a public inquiry would be a sensible option.

Helen Eadie: I do not think that the review group was announced yesterday.

The Convener: Its membership was announced yesterday.

Helen Eadie: That is something else. The principle was announced two months ago and the membership has now been announced. That

means that the group is well on the way to getting some good work done. We should give the group space to do that. It is clear that the work needs to be undertaken sensitively, for the feelings of everyone concerned. You are right about that, convener.

14:45

The Convener: The work is intended to be completed by the end of January.

Dr Ewing: That is what it says in our paper.

Helen Eadie: Indeed. If it is to be completed by then, and if we really care about these distressed people—God forbid that this happens to anyone again—decisions need to be taken as quickly as possible. A public inquiry can take a long time. I have been party to one, and I know that people can still be waiting for decisions to be taken after a year.

John Scott: The important thing is to arrive at the right decision, whether that takes a long time or a short time. The other point that the petitioner raised—very vividly, as I recall—was that, if there was to be a public inquiry, those who did not wish to partake in it would be under no obligation to do so. I do not think that Helen Eadie's argument stands up, although I accept that, if the review is now well under way, it would be a pity to cut across it and insist on doing something else.

We should pass the petition to the Health and Community Care Committee with the recommendation that a public inquiry could be considered at a subsequent date if the review group findings are deemed to be inadequate.

The Convener: The Executive's response will be sent to the petitioners as a matter of course. The petitioners will have a chance to respond to the letter before us, and we will probably be back in touch with them.

We could inform the petitioners of the Executive's position, as outlined in its letter, and write to them explaining that we are holding off from supporting the call for a public inquiry at this stage but that we have referred all the correspondence to the Health and Community Care Committee. We could also indicate that it is our view that the committee could consider the matter if the review group leaves many aspects unanswered or a large number of people dissatisfied. That would give the review group a chance to do its work in the first instance.

Helen Eadie: I agree with such a course of action, as it keeps the issue live in the Parliament. It does no harm for people, particularly the petitioners, to know that we are still monitoring the matter.

John Scott: The petitioners can presumably return to the matter at a subsequent date.

The Convener: They can write back to us at any time.

John Scott: Even if just the committee regards the review group's decision as inadequate, could we still call for a public inquiry?

The Convener: The petition remains live until we decide that it is complete. It is up to us. We can review it any time.

Welcome, Margaret—I am afraid that there is only one petition left.

Mrs Margaret Smith (Edinburgh West) (LD): Apologies for being late.

The Convener: The final petition is PE284, in the name of Mr Fraser MacKenzie, and is covered in the paper that was issued just as we came in for this afternoon's meeting. Members will recall that the petition called for the Scottish Parliament to investigate the proposed sale of land in the area of East Mains, East Kilbride, by South Lanarkshire Council, and to urge that the sale be withdrawn in light of the loss of an open recreation area to the community.

We agreed to write to South Lanarkshire Council, requesting a statement and background information on the issues that were raised in the petition. The response has been received; a copy is attached. Although I do not want to go into all the details of the response, members will see that some of the concerns raised by the petitioners have been dealt with by South Lanarkshire Council, which has made the following conditions of sale: the retention of the existing woodland and tree belt; the establishment within the site of a new seven-a-side football pitch; the replacement within the site of the play area, using modern equipment; and the preservation of any existing rights of way.

Members may also remember that there was some concern that South Lanarkshire Council was not responding to the concerns of MSPs, MPs and MEPs. However, the council has answered that point fairly comprehensively, pointing out that it has dealt with more than 550 written requests for information from MSPs and that it has always been happy to meet any concerned politicians.

The issues raised in petition PE284 are matters for South Lanarkshire Council; it is not appropriate for the Parliament to interfere in local authority decisions. In addition, the council has made it clear that it has taken into account the objections to its proposals by applying appropriate conditions to the sale of the site. It is suggested that no further action should be taken in respect of the petition. The petitioners should be advised that, if they wish to pursue the matter further, they should do so with local councillors and MSPs who may be

able to raise concerns locally on their behalf.

John Scott: Perhaps it would be easier for Dr Ewing and me to raise the matter with the council. However, there was some sympathy with comments that Linda Fabiani made at the previous meeting of the Public Petitions Committee. Before we dispose of the petition, it would be fair to seek her views on whether the letter from South Lanarkshire Council is fair comment.

Helen Eadie: I was not sympathetic to Linda Fabiani's comments at the previous meeting, because she did not go through the correct procedures. If I were concerned about a constituency issue, I would identify the appropriate procedures through which to make representations. Linda Fabiani did not seek meetings with the council in order to take up her concerns and she did not ask whether there was something wrong with the way in which the council handled the situation. Had she done so and discovered that the local council had done something that was not procedurally correct, she would have been able to refer the petitioners to the local government ombudsman.

The Parliament has always been in danger of trying to usurp the role of local authorities. Members should be here to oversee the Parliament's legislative competence or to identify whether changes to legislation, additional guidelines or different emphases are required. In order to be fair both to local people and to the council, an MSP should speak carefully and sensitively to the council about the issues that have been raised. The MSP should also consult other MSPs.

Was the matter referred to Andy Kerr, who is the constituency MSP? I believe that he wants to speak to Linda Fabiani about the petition, because I do not think that she took that simple step. If she did not do so, the situation will become a matter for the Presiding Officer. MSPs must follow the Parliament's protocol that list MSPs let the constituency MSP know what is happening on their patch.

A lot of issues have been raised. We should accept the council's response and leave the situation to Linda Fabiani if she feels that the council has not given a proper response.

The Convener: The five-page answer from South Lanarkshire Council goes into great detail. The correspondence to which it refers has been made available to the committee by the clerk; it shows that Linda Fabiani was in correspondence with the council. Comprehensive replies to that correspondence and offers of meetings were sent to her.

I am reluctant for the Public Petitions Committee to become involved in rows between list and

constituency members and councils. As far as I can see, the council has acted perfectly properly, given that it consulted and listened to local protests.

I have no objection to drawing the correspondence to Linda Fabiani's attention—she is free to pursue the matter further with the committee if she so wishes. However, I suggest that we should be happy with the response that we received from South Lanarkshire Council and that we should write to the petitioners to say so.

Helen Eadie: Although we received that lengthy response from the council only a few minutes ago, convener, your approach to the petition is the right way forward.

John Scott: I, too, am content with that approach, but do the points contained in the council's response meet the petitioners' requirements? We seem to have lost sight of the petitioners in our discussion. Will the steps that the council is taking answer the petitioners' objections?

The Convener: The petition calls for the sale to be withdrawn, but it is not for the Parliament to order a local authority to withdraw the sale of land that is in its ownership. The sale is a matter for the authority, so we cannot respond positively to that part of the petition. We could raise concerns about consultation and listening to local opinion, but the council seems to have consulted and listened. It has made conditions of sale to meet the objections that have been raised locally. I do not think that the Parliament should interfere.

Winnie Ewing will not know that the committee has pressed the Convention of Scottish Local Authorities for some time to set up its own petitions committee, because that would take away many of the petitions relating to local authorities that we receive. COSLA has resisted that suggestion but, if we keep up the pressure, it may listen eventually.

Helen Eadie: I would like to make one last point of correction. I just spotted that the response from the chief executive of South Lanarkshire Council says:

"Ms Fabiani has at no time contacted me or any of my officers to seek a meeting regarding East Mains."

If she had consented to do that, that would have been critical. The convener is right; we should leave the issue.

The Convener: We will leave the petition and draw it to Linda Fabiani's attention. It is up to her how she responds to it.

Convener's Report

The Convener: Members will remember that some committees, including the Transport and the Environment Committee, of which Helen Eadie is a member, complained to the Procedures Committee about the number of petitions referred to them. The matter was intended to be raised at the conveners liaison group but, because of other business, it was put off. The issue has been put off again and the group will now discuss the paper about public petitions and their role in the Parliament on 21 November. The clerk has written a paper that stresses the central role of the Public Petitions Committee and the need for the committee to protect the right of people to petition the Scottish Parliament and its committees. Copies of the paper will be e-mailed to members before 21 November, but the contents must remain confidential until the conveners liaison group discusses the matter. Do members wish to say anything about the relationship between this committee and other committees?

Mrs Smith: I will put on my hat as convener of the Health and Community Care Committee to answer that. Our committee's view and way of dealing with petitions has altered as the first year and a half of the Parliament has progressed. Our committee is one of the top three for receiving petitions; it, the Transport and the Environment Committee and the Justice and Home Affairs Committee are running away from the rest of the field.

Our committee thought that we might get swamped and have difficulty sticking to our agenda, so we changed how we dealt with petitions. We now operate a sifting system, whereby the petitions are considered as a batch, and committee members have a chance to discuss the petitions behind the scenes. By the time that the committee meets in public, we have already discussed some of our thoughts about the petitions. That allows us to sort the wheat from the chaff and decide on the issues that fall within the committee's remit and that we feel ought to be taken on board.

We have tied that system in with greater use of reporters, who now deal with many petitions before the full committee discusses them. There will always be times when the whole committee should discuss a petition. Only recently, we questioned the Minister for Health and Community Care on hepatitis C, about which we still have two petitions to consider.

We realise that the full committee may still have to deal with some petitions; after our reporters have studied them, we may still have to produce full reports and take public evidence. There are

ways in which subject committees can negotiate the problems of public petitions. I strongly resist any attack on the public's right to petition the Parliament in such an open and obvious way.

We have done much good work in the past year and a half. Some of our best work has been done on the back of petitions that have come through this route. I am thinking particularly about Stracathro hospital and Stobhill hospital medium secure unit, and about some of the resulting recommendations that we made on consultation and accountability. It is not giving too much away to say that I will probably mention that again in the chamber on Thursday, when we have another debate on accountability in the health service. I would strongly resist any attacks on the Public Petitions Committee, but we have to consider our work carefully so that we and other committees are not swamped. Other committees may feel the same.

15:00

Helen Eadie: I would be concerned if people were attacking the system because they did not want to have a Public Petitions Committee or because they wanted a change requiring 20 or 100 signatures on a petition before the Parliament considered it, so that one person alone could not lodge a petition. I would resist that.

Important lessons can be learned from other committees. The Transport and the Environment Committee topped the petitions list—36 petitions were referred to it. On two occasions we have appointed a reporter to the Rural Affairs Committee but, other than that, we have not really adopted the reporter system. You may want to bear that in mind, convener, when you have discussions with the convener of the Transport and the Environment Committee. That committee has to manage its work load, and it is inundated with work on the Transport (Scotland) Bill and other issues. Sometimes petitions that are broadly similar arrive from a number of different sources, so I agree with Margaret Smith that we can learn from the idea of grouping things together. We can think about that in this committee, too.

The Convener: We are never prescriptive about the way in which other committees should handle petitions that we refer to them. We act as a kind of buffer between other committees and the public; lots of petitions are dealt with by this committee and do not go beyond it. We take pressure off other committees.

Most of the petitions to the Transport and the Environment Committee were on one subject—the third-party right of appeal in planning applications. The figure of 36 exaggerates the work load—something like 16 of those petitions were on one

subject and could be dealt with as one subject.

Upholding the principle that people have the right to petition the Parliament and to see that their petitions are handled properly and seriously is what this committee is all about. We will never give up on that—not as long as I am here.

John Scott: I entirely agree. I would add that this committee can give the Executive pointers as to requirements for future legislation. That will be a huge value of this committee—possibly its strongest value—as the Parliament grows up and settles down.

Helen Eadie: This committee has been working for more than a year now and it would be really good if we could produce a leaflet or a glossy report—perhaps not glossy, as that might be too expensive—that would serve as a document to be sent to our colleagues on other committees and to the public to let them know of our successes. We have had many successes, which is very much to the credit of the clerks, of you, convener, and of other committee members. We need to blow our own trumpet a little.

The Convener: We intend to issue revised guidance on petitions. At that stage, we will send out a covering letter that draws the attention of other committees to the work that we have done and the success that we have had.

Mrs Smith: I presume that that would be covered in the committee's annual report.

John Scott: Convener, you are more experienced than I am and so I hope that you will guide me on this question. Would it be an idea to develop a list of the top eight or 10 petitions that the committee, having heard the petitioners, believes that the Executive should examine closely with a view to introducing legislation? That suggestion might or might not be appropriate.

The Convener: The problem is that many petitions that are worthy of such consideration have passed through subject committees and, in a sense, have become their property. Although we must ensure that the petitioner receives all responses, the subject committee decides whether the issue is worthy of legislation.

Mrs Smith: Surely we could list the issues that have cropped up time and again and send a letter to—

John Scott: We could send a letter once a year to the Executive.

Mrs Smith: I do not know to whom we could send the letter—Mr McCabe or somebody. However, the letter would outline the top 10 issues that the public have raised in petitions. The list will provide only a pointer to areas of concern; I am sure that there will be no great revelations. Indeed,

it will not surprise anyone to hear that people are concerned about third-party right of appeal.

The Convener: That is a fair point.

Mrs Smith: As issues such as GM food have cropped up time and again, it should be relatively easy to compile such a list.

The Convener: Absolutely.

John Scott: The number of petitions that we have received on a subject should not necessarily indicate the value of that subject. Even if we receive a petition with only one signature, we could still judge whether the petition raised an important issue.

The Convener: Obviously, as the annual report must be written every year, it is perfectly open for the draft report to include references to what the committee regards as the most important petitions of the year and to draw attention to various issues in that way. It will be up to the committee to decide what those issues might be. Indeed, it is open to members at any time to point out to Steve Farrell that a petition is good and should be kept under consideration. It is a good idea for the Public Petitions Committee to highlight the main areas of concern in any one year.

Meeting closed at 15:06.

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