

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 19 December 2000  
(*Afternoon*)

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## **PUBLIC PETITIONS COMMITTEE** **19<sup>th</sup> 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 :**

Linda Fabiani (Central Scotland) (SNP)  
Mr Kenneth Gibson (Glasgow) (SNP)  
Irene McGugan (North-East Scotland) (SNP)  
Mr Thomas Minogue  
Ms Kay Reid  
Mr Steve Sankey (Scottish Wildlife Trust)

### **CLERK TO THE COMMITTEE**

Steve Farrell

### **ASSISTANT CLERK**

Jane Sutherland

### **LOCATION**

Committee Room 3



## Scottish Parliament

### Public Petitions Committee

*Tuesday 19 December 2000*

*(Afternoon)*

[THE CONVENER *opened the meeting at 14:06*]

**The Convener (Mr John McAllion):** Welcome to the 19<sup>th</sup> and final meeting this year of the Public Petitions Committee. I apologise for the fact that we are meeting in the cramped circumstances of committee room 3. We have applied to meet in bigger committee rooms in the new year, because this committee tends to be popular and to attract a large number of members of the public. There is not enough room here to accommodate both them and the petitioners.

I remind members that today we have a heavy agenda. There are 15 petitions to be dealt with at this meeting. Three petitioners will speak to their petitions. In addition, three members of the Scottish Parliament have indicated that they wish to speak to petitions. Linda Fabiani, Irene McGugan and Kenny Gibson will join us at some point during the meeting. We have received apologies from Margaret Smith.

### New Petitions

**The Convener:** The first petition for consideration is PE301, presented by Mr Steve Sankey on behalf of the Scottish Wildlife Trust, on the conservation of peatlands. Mr Sankey is here to address the committee in support of the petition.

**Mr Steve Sankey (Scottish Wildlife Trust):** Thank you for inviting me to address the committee this afternoon. I have given members of the committee information that may assist them.

I would like first to say what lowland raised bogs are. They are dods of peat that differs from the peat that was formed in Highland and Island Scotland. Most were formed in the lowland areas of Scotland several thousand years ago under different climatic conditions—conditions similar to those that we are experiencing today, no doubt.

Scotland has a particularly important responsibility for those bogs. We have lost 95 per cent of them, half since the second world war. Most worrying is the fact that in the past 10 years we have lost a further 10 per cent of lowland raised bogs. They are definitely under threat.

Over the years, the bogs have disappeared because of agricultural improvements, land

drainage, afforestation, peat extraction and neglect. It is interesting that some bogs should have disappeared because of neglect, but it is true none the less. The bogs are important because they are home to a unique range of wildlife. They are carbon sinks, which is an important point these days, given the debates that are taking place about carbon and energy. They are also an invaluable archaeological record.

We are asking the Parliament to do three things. First, we want all the best sites to be protected immediately. There are only just over 100 such sites, so protecting them would not represent a heavy burden or commitment. We anticipate that the Executive's next legislative programme will include a review of the Wildlife and Countryside Act 1981 as it applies in Scotland, following the review that has just been conducted in England and Wales. That offers us the best opportunity of protecting those sites.

Secondly, we would like a further 17 sites to be designated as special areas of conservation under the European habitats and species directive. Those are la crème de la crème, so to speak. Their owners would be able to tap into European Community funds that are available for the management of such sites. We have done all the hard work on that, so it would not be a particularly onerous task.

Thirdly, we would like the Scottish Parliament to come up with initiatives to stop the public using peat. Today the demand for peat is driven largely by amateur gardeners, but alternatives exist.

Lastly, we would like the Parliament to ask the Chancellor of the Exchequer—as this is a reserved matter—whether he would consider introducing a peat tax to dissuade people from buying it.

**The Convener:** You have listed four things, not three. Members of the committee may now question the petitioner.

**John Scott (Ayr) (Con):** I must declare an interest, as I own land that has recently been designated as a potential site of special scientific interest. I also wrote recently to the Minister for Environment, Sport and Culture on the subject of designations.

As Mr Sankey knows, I am not entirely in favour of designations. Who is making this proposal—the Scottish Wildlife Trust or Scottish Natural Heritage?

**Mr Sankey:** The proposal comes from the Scottish Wildlife Trust and its members. We have nearly 20,000 members and have collected 4,000 signatures for our petition. The petition's signatories represent a good cross-section of our membership.

Our members are concerned about the issue primarily because lowland raised bogs are now so rare. Under new environmental legislation, we would not even need to call these sites SSSIs. We are asking only that they should be protected. From our previous dialogue, John Scott knows that I share some of his concerns as a landowner. Our proposal would give landowners an opportunity to tap into resources that are available for the positive management of those sites. As I said, one of the difficulties associated with the sites is that they are neglected.

**John Scott:** What percentage of Scotland do the current 224 designated sites cover? As you know, SSSIs effectively sterilise land. Lists of proscribed practices are issued and, in many cases, the land can no longer be used in the way that it was used before. I have enormous concerns about that.

**Mr Sankey:** We are asking the committee and the Parliament to focus on the 109 sites that are of first-class quality. Those 109 sites cover a total of only 2,500 hectares. They are located mostly in the central belt—in Ayrshire, Lanarkshire, the Lothians and Stirling. There are also lowland mosses on both sides of the Solway, as well as a cluster of sites in Aberdeenshire around the city of Aberdeen and in Buchan. There are definite site clusters in Scotland, where the conditions were right for the formation of such habitats.

**John Scott:** Do you agree that the imposition of SSSIs has the effect of reducing the value of the land to its owners?

**Mr Sankey:** You know my view on that. We should discuss positive land management contracts with the owners, which would enable the owners to be rewarded for the positive management of biodiversity. There is no reason why we could not extend that philosophy—and every reason why we should do so—to the owners of peat sites. I know the owners of many peat sites on the carse of Stirling, who regard those sites as worthless pieces of land. We are asking the Parliament to be creative, through revision of the Wildlife and Countryside Act 1981, and to turn those worthless pieces of land into wildlife jewels, which the landowners can manage on behalf of society.

14:15

**Helen Eadie (Dunfermline East) (Lab):** In your submission, you mention the European habitats directive and say that we are not conforming to that directive in Scotland. Can you expand on that? How wide is the gap between what is required by the European directive and what we propose to do in Scotland?

**Mr Sankey:** I have sent a detailed report on

these habitats to Scottish Natural Heritage, which I would be happy to make available to the committee. Scottish Natural Heritage has recommended the designation of 23 sites, and the Scottish Executive and the UK Government have taken up that recommendation. According to our analysis, there is a robust, scientific case for the designation of a further 17 sites. That would encompass a reasonable percentage of the remaining habitat.

SNH is considering our request, but I am not persuaded that the Executive has got out of the minimalist mode of previous Administrations. I appeal to the committee—in the first instance—to consider the positive aspects of designation. Landowners, land managers and agencies can tap into European funds to manage such sites positively. We have just done that on behalf of SNH and Forest Enterprise, for 11 of the 23 sites, and there is no reason why 40 such sites—the 23 plus 17 more—should not attract European funding in the same way.

**The Convener:** Your petition refers to special areas of conservation, but John Scott mentions SSSIs. Are they the same?

**Mr Sankey:** Not quite. Special areas of conservation are designated under the EU habitats directive of 1992. The UK Government has decreed that, to become an SAC, a site must be designated an SSSI first. However, I disagree with that. That is not a requirement of European law, but the UK Government has so far chosen to pursue that course.

**The Convener:** I am just showing my ignorance.

**Mr Sankey:** I do not think that there are any dods of peat around Dundee.

**The Convener:** If there were, we would burn them. Thank you, Mr Sankey. We now move to consideration of the petition.

The committee has heard from Mr Sankey and has received the briefing from the clerk, on the background papers that have been made available. The Scottish Executive has asked Scottish Natural Heritage for advice on the 17 additional raised peatland sites that are listed by the Scottish Wildlife Trust. The suggestion is that we ask the Executive to inform us when it has received that advice from SNH, and to give us details of the action that it proposes to take in the light of that advice. We can deal with the petition thereafter.

We may also want to seek the views of the Scottish Executive on the more general issue that is raised in the petition, regarding whether existing wildlife legislation is adequate to protect peatlands or whether it requires to be strengthened. I do not know what we could do about a peat tax—perhaps

we could hold that over.

**Helen Eadie:** I suggest that we accept the advice that has been given and that we send the petition to the Executive. We should also draw the matter to the attention of the Transport and the Environment Committee, as it is clearly an environment issue and that committee might want to be at least aware of what is happening. When we receive the response from the Scottish Executive, we could share that with the Transport and the Environment Committee as well.

**The Convener:** I suggest that we pass the petition to that committee for information only, without asking it to do anything with it.

**John Scott:** Perhaps we should also pass the petition to the Rural Affairs Committee.

**Ms Sandra White (Glasgow) (SNP):** It is not necessarily rural areas that are affected.

**John Scott:** It is definitely rural areas.

**Helen Eadie:** We should also pass the environmental advice from the Scottish Executive to the Transport and the Environment Committee. That committee can then decide whether it wants to act on the petition.

**The Convener:** At this stage, we are just gathering information from the Executive. When we receive that information, we can make a final decision on how to dispose of the petition. The suggestion is that we pass the petition to the Transport and the Environment Committee, for its information. Are members against passing it to the Rural Affairs Committee as well?

**Helen Eadie:** I think so.

**Pauline McNeill (Glasgow Kelvin) (Lab):** It is clearly an environmental issue, but we should wait until we receive a response from the Executive. The Transport and the Environment Committee is very busy, and we should warn it that we might ask it to take up the issue. We still have time to think about what we might do when we have received the Executive's response.

**John Scott:** I reiterate my position, that we should pass the petition subsequently to the Rural Affairs Committee. It is very much a rural issue.

**The Convener:** We will reconsider the petition when we receive the Executive's response.

**John Scott:** The number of SSSI designations should also be debated in the Parliament, to make public the way in which designations are arrived at, what benefit they provide to the community and their cost. At the moment, designations are made in a not entirely open way, and there is some disenchantment with the imposition of SSSIs and SACs throughout Scotland.

**The Convener:** The time to make such a decision is when we receive the Executive's response. In the meantime, we will ask the Executive for its advice from SNH and its response to that advice. We will then consider the matter further before we dispose of the petition. We will also pass the petition to the Transport and the Environment Committee, for its information only. Is that agreed?

**Members indicated agreement.**

**The Convener:** The next petition is from Mr Thomas Minogue. It calls for the Scottish Parliament to request that all members of the judiciary declare their membership of organisations such as the freemasons, and that a register of such interests be made available on request. Mr Minogue is here to address the committee.

**Mr Thomas Minogue:** First, I ask for brief clarification. Can the convener assure me that the members of the committee have no personal interest in the subject matter of my petition? It would be ironic if a petition concerning the undisclosed membership of secret societies of public officials was considered by undisclosed members of secret societies who hold public office. Are there any freemasons on the Public Petitions Committee?

**The Convener:** I assure you that I am not a freemason. It is for members to declare whether they are members of any organisation, and only if there might be a conflict of interests. Before we consider the petition, it is up to members to declare whether they are members of an organisation such as the freemasons. I am certainly not a member of the freemasons, and I do not think that any other committee member is.

**Mr Minogue:** You take responsibility for establishing that fact, as convener of the committee.

**The Convener:** I advise members of the committee that, before they participate in any discussion of the petition, they should declare any interests that they have. However, I cannot insist on that—I do not have that power.

**Mr Minogue:** It is on record that I have asked for that clarification.

At an early stage of my business life, in 1980, I was waiting for the Scottish Development Agency to finish building my factory in Cowdenbeath when a rush job came in. With the help of Dunfermline District Council, I managed to find temporary fabrication space in a taxi garage in Cowdenbeath. My landlord needed the money, as his wife was fighting a case in the European Court in Strasbourg. The landlord's wife had objected to her son, Jeffrey, being belted at school. The

popular view was that the woman, Mrs Cousan, was a crank, that the European convention on human rights was a crackpot's charter and that the education system could not operate without the established tradition—

**The Convener:** I am sorry to interrupt you, Mr Minogue, but I must ask you to focus on the substance of the petition rather than on the individual case, which is not for the committee.

**Mr Minogue:** What I am saying has a bearing on the substance of the petition. That is why I am saying it. I would not say it otherwise.

**The Convener:** Please keep your remarks on the individual case brief.

**Mr Minogue:** I am keeping them as brief as I can. I am giving you my reasons for coming here, which I think are relevant.

**The Convener:** Okay.

**Mr Minogue:** To my shame, I shared the popular view that, as I had been belted since I was five, it was okay. Mrs Cousan won the case, and who today would send their five-year-old to school to be belted at the whim of a 20-stone teacher? I learned three lessons: that the European convention on human rights is a good thing; that I should question the established tradition; and that people's convictions can change the law. I make that point as an analogy.

When I considered my position in coming to court, I immediately realised that, as a non-freemason, I could not accept being tried by a freemason sheriff. Someone who promises to prefer a brother, who can communicate in court by secret means with other freemasons and who may not, under pain of death, reveal the secrets of fellow masons, all of which is reinforced by rituals involving blindfolds, nooses, daggers and other devices, was not going to judge me fairly if there were masons involved in the prosecution.

Freemasonry is so infamous that there have been two House of Commons select committee investigations into it, and registers of freemason judges and policemen have been established in England. I consider that a freemason judge must discriminate against me if he is true to his mason's oath. How do I find out whether a judge in Scotland is a freemason? I would have to ask him. It has taken me many hours and many thousands of pounds to find out that the sheriff who will hear my case is not a freemason. I say that that is wrong. A register for litigants should exist. The anachronism of undisclosed freemasonry, along with royal patronage and the Act of Settlement, should be consigned to the dustbin with the tawse. It has no place in Scotland in the 21<sup>st</sup> century and will be challenged by European law.

**The Convener:** Thank you, Mr Minogue. I am

sorry for interrupting you, but I have to follow procedure.

**Mr Minogue:** I thought that it was relevant to give you my reasons for coming here.

**The Convener:** Of course. Before I invite members to ask questions, I should say that, since your petition arrived, we have received a very detailed letter, which arrived by fax yesterday, from Mr C Martin McGibbon, the grand secretary of the Grand Lodge of Ancient, Free and Accepted Masons of Scotland. It arrived too late to be circulated to members of the committee, but it will be circulated once we have considered the petition.

**Mr Minogue:** He has not written to me.

**The Convener:** A copy will also be provided to you, as the petitioner, after the meeting.

**Pauline McNeill:** Are you clear that you would want a register of freemasons to apply only to the judiciary, or do you suggest that we apply it to other public bodies?

**Mr Minogue:** I have dealt with the case as it has come to me. Obviously, I have other views on the matter; I do not think that anybody in public life should be in the freemasons at all—registered or otherwise. My petition is about the specific circumstances that I have to face in coming to trial in a criminal court before a judge. I have confined my arguments to those circumstances and that is what my position is.

**Pauline McNeill:** What organisations would you suggest we include in any changes that we might recommend?

**Mr Minogue:** I am not an expert on organisations associated with freemasonry, but there is the Royal Company of Archers and there are all sorts of degrees of freemasonry, including the women's organisation, the Eastern Star. Those are the organisations that I think we should know about. They are secret societies whose members swear oaths promising to prefer brothers. I cannot see the logic of those organisations having any place in the judiciary, which is supposed to be based on openness and common humanity. It is an anachronism and cannot be right.

**Pauline McNeill:** Would that include Orange lodges?

**Mr Minogue:** I am dealing with masonic organisations. I do not know about the Orange Order and I have not mentioned that. I do not perceive the Orange Order to be such a force to be reckoned with in Scottish society as I do the freemasons. It is a different kettle of fish.

**The Convener:** Can I just explain that the letter is from the Grand Lodge of Antient, Free and Accepted Masons of Scotland; it was not from the



Orange Lodge.

**Mr Minogue:** I knew that.

**The Convener:** Could you clarify the answer that you gave to Pauline McNeill? You want to include not just High Court judges, but sheriffs and so on.

**Mr Minogue:** All members of the judiciary who have a bearing on sentences or responsibility for the trial.

**The Convener:** Justices of the peace too?

**Mr Minogue:** Yes.

**Helen Eadie:** Good afternoon, Mr Minogue. I am pleased to meet you because although you are not a member of my constituency, your company is in my constituency.

**Mr Minogue:** You have refused to help me on that basis.

**Helen Eadie:** I had to refer you to Scott Barrie who is in the next-door constituency.

The documentation that you have presented us with says that you allege that the Lord Chancellor of England, Lord Irvine, in evidence to the Home Affairs Select Committee on Freemasonry in Public Life, has made it clear that a litigant in England and Wales has a right to know whether the judge before whom they appear is a freemason.

14:30

**Mr Minogue:** That is correct.

**Helen Eadie:** Can you expand on why you say that you allege? Is there nothing that substantiates that allegation?

**Mr Minogue:** The allegation of freemasonry?

**Helen Eadie:** No, the fact that the Lord Chancellor has given that evidence to the Home Affairs Committee. I presume that you are quoting from the report?

**Mr Minogue:** Yes. The Lord Chancellor said:

"All that is really necessary—I shall be very interested to hear what the chairman says—is for the public to have a proper opportunity to know whether the judge before whom they appear on whatever day is or is not a mason. However the register is made public—the detail has not been worked out yet—it will have to achieve that purpose."

A register has been set up in England on a voluntary basis. It has been very successful with the judiciary, but very unsuccessful with the police.

**John Scott:** Do you have evidence that membership of the freemasons in some sense precludes members of the judiciary or the police from arriving at fair and just decisions?

**Mr Minogue:** That is a difficult thing to prove. There is common perception and circumstantial evidence. Unless I gain entry to a masonic lodge and find a judge plotting with a policeman, I cannot provide the evidence. One would have to be very naive not to have noticed freemasonry in most walks of life. In the industry that I am involved in it is commonly seen, although it is always anecdotal and never proven.

However, the evidence of the Select Committee on Home Affairs included examples of bias by judges. The register is not being created for no reason—there is a need to monitor the situation. There is a question of definition. We need a register of judges who are masons in order to judge whether they are biased.

**John Scott:** The basis of your petition is unsubstantiated allegations.

**Mr Minogue:** Absolutely.

**John Scott:** You must have reasons for bringing the petition to the committee. If you have no examples, we are left with allegations.

**Mr Minogue:** You are quite right. No judge in the country has been convicted of freemasonic bias.

**John Scott:** I am a member of various organisations, but I hope that that does not prevent me from being able to judge each case on its merits and from having a fair and honest opinion.

**Mr Minogue:** Secret societies are different, backed up as they are by oaths, rituals and ceremonies. This is not the boy scouts. I did a word search on my computer and it threw up one case: Contrada v Italy in the European Court of Human Rights. Contrada was the assistant to the anti-Mafia commissioner in Sicily. He was kept in jail for two years and seven months because he was a freemason, was colluding with the main men in the Mafia in Sicily and was tipping them off about police raids. This ain't the boy scouts. This is not an organisation like a golf club; this is a sinister organisation. What harm can openness do? Will it damage a judge if he reveals that he is in the freemasons? If I am wrong, I am wrong.

**The Convener:** Are you calling for a voluntary declaration?

**Mr Minogue:** Whether it is voluntary or compulsory is a matter for discussion. In England, it is voluntary. That has worked in relation to judges, but 64 per cent of police officers have not returned their forms. Those are figures from the Home Office.

**The Convener:** I understood that, in England, existing judges and magistrates are asked to volunteer the information, but that any new

appointees would be required to make a declaration.

**Mr Minogue:** That is correct. Any new member of any council in England has to make a declaration, whether he is the bin man or the chief executive.

**The Convener:** Would you settle for such a provision in Scotland?

**Mr Minogue:** Absolutely. If there is a problem, the measure would breed that problem out. If people are joining the freemasons to gain some sort of benefit, they will do so only if they can be surreptitious. If membership is in the open, no one has anything to worry about.

**The Convener:** Open, transparent and accountable, as the Scottish Parliament was meant to be.

**Mr Minogue:** Absolutely. I wrote to the Nolan committee about this matter. I was told that the answer, as laid out in the seven principles of public life, was openness. Unlike when I asked this committee to make a declaration, the Nolan committee said that members of the committee with personal interests should declare them in a case such as the one that we are discussing.

**The Convener:** I thought that I made a declaration.

**Mr Minogue:** I beg your pardon. I am trying to say that membership of the freemasons should be an interest that must be registered. Scottish judges have nine categories of interests that must be registered, such as money, heritable property and shares. English judges have a tenth category: miscellaneous.

**The Convener:** Ultimately, this petition could be referred to the Standards Committee, which deals with the "Register of Members' Interests".

I thank Mr Minogue for answering our questions.

As I said at the beginning, a detailed letter arrived from Mr C Martin McGibbon, the secretary of the Grand Lodge of Antient, Free and Accepted Masons of Scotland. It contains too much information for us to take in at such short notice. I suggest that we follow the recommendations that were originally set out in the briefing paper about Mr Minogue's petition, which is that we seek comments from the Lord Advocate on the current legal situation in Scotland regarding declarations of interests and whether organisations such as the freemasons are included in such declarations. We should consider the Lord Advocate's response along with the more detailed letter from Mr McGibbon before we decide what to do with the petition.

**Pauline McNeill:** We should consider whether we think that it is appropriate that, before the

committee has had a chance to hear from the petitioner, any party should write to us expressing a view. This committee should decide whether it wants to hear from another party—in this case, I think that we do. I have a problem with someone seeing the petition on the agenda and writing to us before the matter has been raised in the committee. We have to take control of that.

The point that the petitioner makes—that people who sit in judgment should declare all their interests, including membership of secret societies—is sound. I support the suggestion in the briefing paper that we write to the Lord Advocate and copy the correspondence to the Justice and Home Affairs Committee. At that point, it is for this committee to decide who else to contact.

**The Convener:** On Pauline McNeill's point about people responding to a petition that they have seen on the web or wherever, I should point out that anyone can write to the committee. The question is whether we accept their letter as pertinent to the petition that is under consideration. I believe that, if we receive a letter, it should be circulated to the committee so that members may come to their own conclusions as to whether the letter should be taken on board. I would not be happy to say that people should not be allowed to write to us to make a point about any petition.

**Pauline McNeill:** I am not saying that people should not have the right to write to the committee, but we should be fair to petitioners when they have not yet uttered a word in support of the petition that they have made the effort to submit to us. We should respect petitioners and allow them to make their points before a letter that responds to those points—I have not read the letter but I assume that it does that—is put into the public domain.

I am just commenting on the stage at which such responses should be made available. It is not fair to the petitioner to allow responses at that early stage. If that is allowed, people will get wise to what is happening. When they see a petition to which they object, they will get their letters in before the petitioner has appeared. I do not object to responses, but a process should be put in place. If a petitioner goes to the bother of approaching the Parliament with a petition, he or she should be heard first. That is the correct order.

**The Convener:** I agree with that. The response has not been made available. It was not circulated to committee members and the public have not seen it.

**Pauline McNeill:** I am happy with that.

**The Convener:** The response will not be seen until the committee reaches a final decision.

**Helen Eadie:** I agree whole-heartedly. Mr Minogue was given his three minutes. He might have wanted to address some of the points that were in the letter, but he did not have a chance to read it. The only way of getting round that would be to invite Mr Minogue to return and make another submission. That would cause concern. Like other members, I have no problem with anyone wanting to inform me of the issues. You make the best decision when you have the best information. I think that we would all sign up to the notion that we should have full and fair consideration of all the material that we are given.

I support the recommendations that have been proposed to the committee, which the convener outlined. When we are given information for our next meeting, please could we have some references to the decisions that have been taken in London for England and Wales? That would inform us better about what the Lord Chancellor said to the Home Affairs Committee in Westminster and what the conclusion of its report was. We have a summary of that, but it would be good to see the report for ourselves.

**The Convener:** We should get that information to committee members. In any case, we will not consider how to dispose of the petition until we have the Lord Advocate's response. Then we will consider the letter from the freemasons. Mr Minogue will have the opportunity to come to that future meeting and hear how the committee disposes of the petition. I thank him for attending.

**Mr Minogue:** Thank you.

**The Convener:** We will keep in touch.

The next petition is PE324, from Ms Kay Reid. It concerns the right of appeal on fatal accident inquiries and has 5,443 signatures. Is Ms Reid here to speak to the committee?

**Ms Kay Reid:** I am here.

**The Convener:** I am not wearing my glasses, so I could not see you. I know that speaking to the committee can be an ordeal. Just relax and take your time. You have three minutes to make your case. Committee members will then ask questions arising from that.

**Ms Reid:** I am quite nervous about making my statement to the committee, so I hope that you will forgive me for reading out what I want to say. I do not want to forget any of the main points that I want to make.

I thank the Public Petitions Committee for the opportunity to make this short speech. I intend to outline my concerns about the death of my 19-year-old son Dwayne on 9 June this year. I will stress the difficulties that I have experienced in obtaining information about the circumstances surrounding his death.

Only a fatal accident inquiry can begin to answer the serious and outstanding questions that I have in mind. I hope that the Lord Advocate will reconsider his decision to refuse an inquiry following a referral by the procurator fiscal. That is one issue, but a wider issue is also involved. There is a need for a right of appeal when an inquiry is turned down. I should not have to beg those in authority for answers to my questions about the loss of my child. I should have the right to an explanation and access to all the relevant information.

Those rights would not bring Dwayne back, but at least I would be able to feel that I had done all that I could to find out why he died. Why did a 19-year-old boy die when three doctors had diagnosed only an ear infection? Why no X-ray? Why no scan? I realise that they cannot be done for every ear infection, but Dwayne had been bleeding from his ear and was in terrible pain. The pain became even worse after he was prescribed antibiotics for more than a week.

I want to play my part in ensuring that no other family suffers the grief and pain that we are experiencing. That has been made so much worse by the lack of answers. I hope that the committee will help me to get those answers from the health service and the justice system. I hope that this committee can help get a right of appeal, which would make the criminal justice system more accountable to the public. There are all sorts of rights of appeal in the legal system, but none in this area of law. There is neither a right of appeal nor a requirement for reasons for a refusal to be given, even to the relatives.

I believe that the 5,443 signatures on our petition signify genuine public interest and concern about Dwayne's death. I believe that the petition, together with the factors relating to Dwayne's care and treatment that I have raised, justify a fatal inquiry. Thank you, convener, for allowing me to have addressed this committee. I will do my best to answer any questions that you may want to ask me.

14:45

**The Convener:** Thank you very much. I know that it is not easy to come along and speak on occasions such as this. On behalf of the committee, I wish to say that you have our sincere condolences for what happened to your son and for the trauma that you have had to experience since that day.

We obviously do not have the power to order a fatal accident inquiry, but we certainly have the power to dispose of your petition in a way that may address the issue of a right of appeal against decisions made by the Lord Advocate.

**Pauline McNeill:** Have you been given any reason why an FAI has been ruled out by the Lord Advocate?

**Ms Reid:** No, none at all.

**John Scott:** I would like to welcome you here, Ms Reid, as a constituent of mine. I know that this is not easy for you, and you have my condolences. This has been a terrible tragedy for your family, and I am upset that it has happened. You are absolutely right in bringing your demand for a right of appeal. I entirely support what you say. That is what I had written down before you spoke, and I am more convinced now.

**Ms White:** I wanted to ask a similar question to that of Pauline McNeill about a FAI being refused. Have you approached anyone else, such as an MP? From whom have you had help?

**Ms Reid:** Sandra Osborne MP is helping me in trying to secure a fatal accident inquiry, to try to get some answers.

**Ms White:** Have you had no response at all from the hospital or the health board?

**Ms Reid:** Sandra Osborne has had nothing back from them.

**Ms White:** Nothing in writing? Not even a phone call?

**Ms Reid:** No.

**The Convener:** This is a clear case, which we understand and with which we fully sympathise. I thank you again for your courage in coming here today to talk to the committee, and for the work that you have put in. I know that the collection of signatures was carried out almost single-handedly. You are to be greatly congratulated on your effort. We will now go on to discuss how to dispose of your petition. I thank you for your attendance.

As I said, we do not have the power to order a fatal accident inquiry—that is beyond our remit. However, we can pursue the call for a right of appeal against decisions by the Lord Advocate to refuse fatal accident inquiries. The first step that has been suggested is to write to the Scottish Executive, asking it to respond to the petition and to comment on it. I assume that Scottish Executive means the Lord Advocate in this case.

**John Scott:** It appears that there is a gap in the appeals system. There is an appeals structure for almost everything else. Why is there not one in this case? That gap in the law may be there for a very good reason, but we should certainly write to the Lord Advocate and ask that an appeals procedure be set up.

**Pauline McNeill:** It seems unusual that there would not be an FAI for someone who died suddenly at such a young age. Perhaps this

shows my ignorance, but I thought that there would automatically be one. Given that a sudden death in hospital was involved, I cannot think of a reason why the Lord Advocate cannot give the family an explanation. We should point out to the Executive in writing that the petition has 5,443 signatures, and that the issue is important to the local community.

**The Convener:** I agree. I assume that there would automatically be a fatal accident inquiry in such circumstances and that, if there is not one, the Lord Advocate has to give reasons. If he does not have to, we will have to consider that when we decide what to do with the petition later.

We will keep you in touch with the progress of the petition, Ms Reid. As soon as we hear from the Lord Advocate, we will contact you.

The next petition, PE308, is from Mrs Maureen McCann, and calls on the Scottish Parliament to investigate and reverse South Lanarkshire Council's decision to sell undeveloped land in the Blackbraes area of Calderwood in East Kilbride. The petitioners are objecting to the development of an open area including woodland for housing. Although the planning application for development was initially rejected by the council, that decision was overturned by the Scottish Executive reporter.

A new planning application has been granted and will retain the woodland area that the petitioners are concerned about. The schedule of conditions prepared by the reporter states that a woodland management plan shall be prepared and that the plans shall include proposals for protecting, regenerating and replanting the woodland. In addition, the woodland management plan shall be agreed in writing with the planning authority prior to works commencing on the site.

Before we discuss the petition, Linda Fabiani will speak to it. Linda, welcome to the committee.

**Linda Fabiani (Central Scotland) (SNP):** I have two points to make, the first of which is perhaps procedural. Mrs McCann is present at today's meeting; however, it took until yesterday lunchtime before she was told that she could have a seat at this meeting. Although I know that committees sometimes face space restrictions, perhaps the committee could consider making it a priority for petitioners to be able to sit in on meetings and hear the committee's discussions on their petitions.

Secondly, I should make it plain from the start that I am not acting on behalf of Mrs McCann or any members of the Blackbraes protection committee and have never been asked to do so. They have carried this campaign on their own. I have come before the committee today to highlight some bad practice by the council. A two-page advert, paid for by council tax payers, that the

council took out in the local paper contains a whole paragraph that names Mrs McCann and details where it believes that she has been disingenuous. It is extremely bad practice for a council to name a constituent in a paid advert in her local newspaper when that constituent has after all only exercised her democratic right to question the council's actions.

**The Convener:** On your first point, I apologised at the start of the meeting for the cramped circumstances in this committee room. Only petitioners are present today; no members of the public have been able to get access because of space restrictions.

The committee decided some time ago that only three people could speak to petitions at any one meeting, which is why we had to wait till the last minute before informing Mrs McCann that she could attend. We are taking the matter up with the authorities and hope to get a bigger room in the new year for all Public Petitions Committee meetings. Like you, I think that it is very important that the public gets access to these meetings; however, the situation could not be avoided this time.

Although we note your comments about the council taking out the advert, any maladministration by councils is a matter for the local government ombudsman and it would be perfectly legitimate to lodge a complaint about the council with him. However, the committee cannot direct cognisance of that complaint, as we are not responsible for South Lanarkshire Council. The responsibility lies with the people who elect the councillors. They will obviously take an interest in the council's activities.

That said, members now have the chance to debate what to do with the petition. The recommendation is that it is not for us to interfere with or overturn the executive decisions made by other public bodies in Scotland on, for example, the sale of land under its ownership. It is suggested that the committee might agree to inform the petitioner that the Scottish Parliament cannot take the action that she has requested and then take no further action.

**Helen Eadie:** I agree. It is not for the Parliament to decide on this application or indeed on any other such applications. Different levels of government have specific areas of responsibility and the Parliament cannot legislate on council decisions of any kind about ownership of land, planning issues and so on. I support the recommendation.

**John Scott:** Although I cannot disagree with any of Helen Eadie's comments, the committee will be aware that this question keeps being raised with us. It appears that once something is

accepted as part of a local plan and provided that it does not contravene any national planning policy guidance, there is no chance for the public to object afterwards.

People must be made more aware of information about local plans as they are being developed, because that is the only time that they can object. Once a local or structure plan is approved, that is it. Most people are not aware that, in effect, proposals are passed almost before they have had an opportunity to object. It is only when specific projects are proposed that people take objections to the council or bring them here. There is an information gap that needs to be addressed. I am not sure whether the Parliament is capable of doing that, but somebody somewhere needs to do it.

**The Convener:** That could well be the subject of a petition to the Scottish Parliament.

**Ms White:** I know that the Public Petitions Committee does not have the authority to legislate, but 70 per cent of the petitions that we receive are from local residents who are unhappy with council decisions. It is a pity that the Convention of Scottish Local Authorities did not take up our idea of having a public petitions committee. Such a committee would solve many of our problems and those of the public, who could be heard by it.

Our job is to ask people whether they have tried every option, such as the ombudsman, and if they have not, to advise them to do that. Unfortunately, we cannot legislate, but surely we can at least help people to overturn certain planning consents. This petition has 1,800 signatures, not just two or three.

**The Convener:** I agree that it can be very frustrating for members of the committee, but the way in which democracy operates in Scotland is that councils are elected bodies that are accountable to the people in their areas. They are not accountable to the Parliament. It is important that we should not interfere in decisions that they take and for which they will be held to account by the local electorate. It is for the local electorate to decide whether the council is in order.

There are general issues with which the council can and does deal, including the third-party right of appeal against planning decisions either by councils or by reporters. That matter has been passed to the Transport and the Environment Committee and we are awaiting a note from that committee on progress. There may be other general issues that people could raise and which we could pass into the process of changing planning law in Scotland. However, we cannot reverse decisions that are taken at local level. It is not within the committee's or the Parliament's

power to do that, and it is important that petitioners begin to understand that. We are receiving a series of petitions that we simply cannot handle because other democratic bodies deal with the matter to which those petitions relate.

**Helen Eadie:** John Scott makes a good point about the information gap. I do not know whether there is any way of tackling that formally, although we may want to raise it with the Scottish Executive. There are examples of best practice in Scotland, as some councils are very good at sharing information with local communities on the structure and local plans, and on the way in which the planning system works.

As politicians, we have had an opportunity—I took advantage of it—to nominate for a public award local officials who have followed best practice. That is something that we can do to promote best practice across Scotland. We cannot legislate on that, but we have to encourage people to adopt the idea of sharing information. As the convener said, we have to abide by the different levels of government and recognise who is responsible for what. We must act with our other hats on in different circles.

**Pauline McNeill:** We have to get across the message, hard though it is, that we are not a higher court of appeal. Even if we change the law—I am in favour of change—we would never give ourselves the power to investigate or reverse the decision of a local authority, as that is where the decision should lie.

MSPs need to communicate the message to their constituents that the requirement for us to consider a petition is that there is no other forum in which the public can have their say; in planning law, for example, there is a right of appeal. It is not for us to encourage petitions. However, Parliament, where it has the powers to do so, should consider whether the law should be changed so that people feel that they have a say in the local plan. Unfortunately, we will have to keep telling petitioners who submit petitions like this that we cannot make a decision.

**The Convener:** I bumped into the leader of a large council in the centre of Scotland who is going to invite me, as the convener of the Public Petitions Committee, to talk to that council about setting up a COSLA public petitions committee that can deal with issues that it is for local authorities to pursue, to save them coming to the Scottish Parliament.

Is the recommendation accepted?

**Members** *indicated agreement.*

**The Convener:** Petition PE320, from John Watson on behalf of the World Development Movement, concerns the implications of the

liberalisation of trade and services. It calls on the Health and Community Care Committee to examine the possible implications for health policy in Scotland of the World Trade Organisation's liberalisation of trade and services. This petition was hosted on the International Teledemocracy Centre's e-petitioner website for three weeks during November.

Members have copies of the background information that was supplied by the centre, which is attached to the petition and includes details of comments that were made on the website and issues that the petition has raised. This is a far superior form of petition than those that are normally submitted, as far more information and analysis of individual petitions is provided through the e-petitioner system. I recommend that people throughout Scotland use that system more than they do at present.

The World Trade Organisation is pushing for greater liberalisation of trade and services, and the outcome will be legally binding on the Scottish Parliament. The petitioners are concerned about the impact of liberalisation on health provision in Scotland. Linda Fabiani has lodged a motion on health provision in Scotland, which calls for the Parliament to debate the issue. It has attracted the support of 53 members. Linda, do you want to say something on this petition?

**Linda Fabiani:** Yes. I shall not say everything that I intended to say, as the recommendation—which I am pleased to see and I hope the committee will accept—is to refer the petition to the Health and Community Care Committee. I am extremely happy with that recommendation.

As you said, convener, I have lodged a motion that has attracted the signatures of 54 members—including myself—some of whom are members of this committee.

**The Convener:** They should perhaps declare an interest.

15:00

**Linda Fabiani:** Since April, I have been asking the Scottish Executive about this matter, but I have not received answers that give me confidence in the Executive's plan of action. The Executive has made it clear that health provision in Scotland will not be affected by the liberalisation of trade and services, but I do not think that anyone can be sure of that. The issue must be debated.

My latest parliamentary question, which I lodged in October, asked the Minister for Health and Community Care why she believes the general agreement on tariffs and trade does not apply to services that are provided by the Government and

local authorities. More than a month later, I have still not received a reply, which suggests that the Scottish Executive and Westminster may not be sure of the answer. If the committee is considering passing the petition to the Health and Community Care Committee for discussion, I would be behind that decision.

**Pauline McNeill:** I signed Linda Fabiani's motion. I am not against the suggestion, if that is what the committee decides. It would be useful to have a members' business debate, as that would allow us to ask the question of the Executive and get a definitive answer on the substance of the motion.

We have talked about enabling the Public Petitions Committee to recommend subjects for debate in the Parliament. World trade is a subject that is worthy of such consideration. I acknowledge that this is a health issue and that Linda Fabiani wants it to be the subject of a members' business debate, but the committee does not get many opportunities to recommend subjects for debate and we have not yet done so. We have to be aware that other committees and constituency MSPs might want to consider certain matters, but this might be a big issue that we could recommend for debate in the Parliament. However, I would be happy to go along with the suggestion.

**Linda Fabiani:** The motion that I have lodged is not marked for a members' business debate because, when I lodged a similar motion previously, some members told me that they would not sign it because it was marked for a members' business debate. It is not for me to speculate on their reasoning, but I felt that it was important to get a broad spectrum of cross-party support for my subsequent motion. That is why I did not mark it for a members' business debate.

**John Scott:** I apologise, as I have not seen Linda Fabiani's motion. Is the suggestion that liberalisation would, de facto, be a bad thing?

**The Convener:** It depends on your politics. Direct public services could be opened up to private competition: not just ancillary services, but doctors and nurses in the health service and teachers in schools. Under liberalisation, those people, who are thought of as public sector workers, could be open to private competition.

**John Scott:** The implication is that that would of necessity be a bad thing.

**The Convener:** Some members would regard that as a good thing, but there may be others who do not. That is why we need a debate.

**John Scott:** That is a good reason to have a debate. Some members might regard liberalisation as reasonable.

**Ms White:** I declare an interest, as I have signed the motion and agree with the recommendation.

**Helen Eadie:** I must confess that I cannot remember whether I signed the motion. I know that I have signed a motion on this issue.

**Linda Fabiani:** You did.

**Helen Eadie:** Thank you.

There has been more than one motion on this issue. I wholeheartedly support Pauline McNeill's comments. We should urge the Parliament to debate this issue.

**The Convener:** I should declare an interest as I think that I signed the motion. I certainly support it.

**Linda Fabiani:** You signed it.

Who did not?

Pauline McNeill will sign it tomorrow.

**Pauline McNeill:** I have signed it.

**Ms White:** We now have a Social Justice Committee; it is no longer the Social Inclusion, Housing and Voluntary Sector Committee. Should a copy of the petition go to it? It will affect health through schools and so on.

**The Convener:** Linda Fabiani, who is the promoter of the motion, wants the petition to go to the Health and Community Care Committee, as has been recommended.

A further suggestion is that we explore the possibility of asking the Parliament to debate this issue. I do not think that the two are mutually exclusive. The clerk is whispering to me that we must do one or the other. If we pass the petition to the Health and Community Care Committee, it becomes its responsibility, not ours.

**Linda Fabiani:** Could there be a debate on the Health and Community Care Committee's findings? Would it be up to it to decide whether to ask for a debate?

**The Convener:** It would be for it to decide. We should take one route or the other.

**Linda Fabiani:** Could we revisit the issue?

**The Convener:** We can revisit it at any time. Until the committee has taken a decision that a petition is finished, it remains current.

I suggest that we send the petition to the Health and Community Care Committee and ask it to address it. It will come back to this committee eventually. If we are not happy with the way that committee deals with it, we can revisit it.

**Linda Fabiani:** Thank you very much.

**The Convener:** Thank you.

The next petition is PE313, from Mr Hugh Devine, on a dispute about land maintenance. It calls on the Parliament to resolve a dispute between householders and a developer, Barratt Homes, in Deaconsbank in Glasgow, over who is responsible for the maintenance of about 27 acres of common land. The dispute has been running for some years. It has involved Glasgow City Council and Barratt Homes. The petitioners have also sought legal advice and information from the Land Register of Scotland.

Johann Lamont has indicated that she wanted to come to the meeting this afternoon, but could not do so. She has asked me to read out her comments on the petition for the information of the committee. She states:

"Mr Devine has emphasised to me that there are concerns about the impact of recent legislation on their situation. In a letter from the Justice Department, Mr Devine was informed that the legislation will not confer any legal status on the residents' association and that its legal status will only be established by a court judgement. Mr Devine has reported that they have had great difficulty in having this matter pursued.

I raised this issue in the debate on law reform in Parliament. I believe there may be important issues, highlighted by this situation, which should be addressed."

Kenny Gibson also wants to speak on this petition.

**Mr Kenneth Gibson (Glasgow) (SNP):** I spoke to Johann Lamont this morning. We have been working together on this issue, which affects about 639 homes in the Deaconsbank area of the Pollok constituency. It has been going on since 1985.

The issue is so complex that four legal firms have refused to take on board the business of trying to resolve it on behalf of the residents. It appears, from the advice that the residents have received, that the title deeds and deed of conditions that were given to the home owners many years ago, were incompetent. Therefore, it appears that the owners of the area are expected to pay maintenance on land that is still technically owned by Barratt Homes.

In 1991, there was a judgment on the matter by Professor MacDonald and Professor Noble, who declared that the deeds were not legally enforceable. As you said, convener, the residents went to Glasgow District Council and subsequently Glasgow City Council for assistance. Having had no joy with the council, they want to know whether the matter can be referred to one of the justice committees, to consider in detail. Barratt Homes first agreed with Glasgow District Council to maintain the common land in 1977, but the matter has still not been resolved. The difficulty is that many residents say that they should not have to pay anything towards the maintenance. Those who are trying to maintain the land are being

forced to contribute more each year, even though they believe that it is up to Barratt Homes. We need a definitive answer on this matter; it should go to a committee with some legal expertise so that it can be resolved once and for all. That is Johann Lamont's view as well.

**Pauline McNeill:** I know a wee bit about this—I understand that it is extremely complex. How many of the 639 homes that are affected are legally obliged to pay the maintenance charge? Is it the case that new owners are not bound by the title deeds?

**Mr Gibson:** According to the residents association, none of them is legally obliged to pay it, but a lot of them have been doing so simply because there is no alternative. When Glasgow District Council and the regional council took on responsibilities such as roads and sewers, they did not take on board this area, and it was left to rack and ruin. Local residents have attempted to do something about it. There is a lot of concern about why they should have to do that when, technically, according to Professor MacDonald and Professor Noble, the land is still owned by Barratt Homes.

**Pauline McNeill:** So a diminishing number of tenants are paying the maintenance charge?

**Mr Gibson:** Of course. I asked Mr Devine, who submitted the petition, for his view. He said that it is a point of principle that they should not pay, but he feels that they must still do something about the land because if it is left to rack and ruin that affects property values and the entire community. The area could go into decline, which is something that the residents association wants strenuously to avoid.

**Pauline McNeill:** Is it a legal solution—a change in the law—or a political solution that is needed here?

**Mr Gibson:** I think there should be a legal judgment on the matter. My concern is that the residents association has spent a considerable amount of money trying to recruit legal firms, who have said, "Sorry, but this is not for us. We do not want to handle this." Even when it has tried to hire experts—and, at one point, an advocate—it has been rebuffed. It feels that the Scottish Parliament is the best place to go with this. It is concerned about how the Abolition of Feudal Tenure etc (Scotland) Act 2000 and the titles and conditions bill will affect the situation. It is looking for some guidance.

**Pauline McNeill:** Is there any scope for the Lands Tribunal for Scotland to work out who is legally responsible?

**Mr Gibson:** The Lands Tribunal could be a way forward. By presenting this petition, the petitioners



are asking the Justice and Home Affairs Committee to tell them whether to go to the Lands Tribunal or whether there is some other solution. As I said, they have tried to find a solution off their own bat, but they have been unable to employ counsel to represent them effectively.

**John Scott:** It should be for counsel, or whoever, to direct them to the right route to get satisfaction. It seems unusual that lawyers should be turning away work. That is unheard of. Do you know why four companies are refusing to act on behalf of those people?

**Mr Gibson:** I asked the petitioners directly and Johann Lamont and I have discussed the matter. There have been no specific details; the reasons for their being refused representation have been very hazy. Some superb documentation has been provided, but there is nothing hard and fast that says, "We are unable to accept your business because of X, Y or Z." They appear just to be getting fobbed off.

This is probably a bigger issue than it appears to be. When I spoke to Johann Lamont this morning, we discussed the question of the deeds being incompetent. Johann asked whether that could mean that the ownership deeds might therefore be incompetent. I do not know whether members would want to go down that road, but it is certainly an issue that may arise. That may be why a legal firm has backed off, but I am only guessing about that. The petitioners are certainly keen for the justice committees at least to point them in the right direction. As I said, they have been trying since 1985 and have got absolutely nowhere.

15:15

**Pauline McNeill:** My understanding is that what was done in 1985, when the title deeds were drawn up, was perfectly in keeping with the legal profession's practice at the time, but it is no longer in keeping with legal practice and lawyers do not want to take on the case because, nowadays, they would not draw up a title deed as they would have done in 1985, so they know that they cannot find a solution.

There is a more general issue here, which is not specific to Deaconsbank. Where a practice in law has been followed for the drawing up of title deeds, or for any kind of conveyancing, and the legal profession then decides to do things differently, the people who have accepted the original legal advice are stuck with it. That is the only basis on which the Parliament could consider the case. The justice committees could not recommend that we open up that decision; that is what lawyers should be doing.

**Mr Gibson:** I understand exactly what you are saying, Pauline, but my understanding from the

petitioners is that the legal advice that they were given circa 1985 was wrong, based on the legislation in force at that time. That is why Professors Noble and MacDonald have said that the deeds were incompetent. It is not that practice has changed; the deeds were incompetent at the time.

According to the residents, Barratt Homes held a public meeting at which it said that Glasgow District Council and Strathclyde Regional Council would take on the land. Only subsequently were they told, by Glasgow District Council, that the common land would not be taken on by the council and that, if it had been, moneys would have been paid by Barratt Homes for that purpose. It all goes back to that 1985 decision. The petitioners are not asking Barratt Homes to compensate them for all the years when they have paid for maintenance; all they are saying is that Barratt Homes owns the land and should pay for it.

When they wrote to the chief executive of Glasgow City Council, James Andrews, he said that Barratt Homes does indeed own the land. Not only does that mean that Barratt should be maintaining it, it means that it could decide to sell it at a future date. It is therefore an important issue that affects a significant number of people.

**Helen Eadie:** I suggest that the Parliament write to Glasgow City Council—or ask the petitioners to do so, which is probably a better idea. They should ask the council about the recommended action on the petition: that the non-compliance should be handled by the planning department. The petitioners ought to write formally to the council, urging that the compliance issue be pursued.

My understanding is that the planning department will have placed conditions on any house owner or developer who has been granted planning permission in an area. If those conditions are not followed, there will be an issue of compliance that Glasgow City Council will have to take up with the developers. The onus to take legal action will lie with the council rather than with the petitioners.

**Mr Gibson:** Glasgow City Council has effectively negated that possibility by saying:

"The Council does not have a statutory duty to vet private property titles or indeed the resources to do so and unfortunately, as it applies in Deaconsbank's case, was not in a position to right any alleged mistakes which may have given rise to your concerns."

**Helen Eadie:** I think that is coming in a slightly different way. The petitioners presumably went to the chief executive, but there is also the possibility of going through the head of planning services. Planning services has different roles and responsibilities, involving planning constraints and

planning conditions. If a planning consent has been granted at some stage, there will be something like a section 65 agreement. The developers' compliance with it will be at issue. I suggest that the appropriate route is to go through the head of planning services, to begin to trigger that—

**Pauline McNeill:** But this committee cannot do anything with the petition. If it is felt that there is something that could be done by another committee of the Parliament, the petition would have to be resubmitted in another form. As it stands, we cannot do anything. The focus is legal. If the approach was political, Kenny Gibson, Johann Lamont and other MSPs could try to bargain with the council to get the ground maintained. A proposed title conditions bill will be discussed by the Parliament, but I do not have a clue what will be in it. That could be relevant. It seems to me that what the residents have been asked to sign up to is legally binding but is so unreasonable that they should be able to find a way out of it—but only with a change in the law.

**Mr Gibson:** I think the petitioners want this committee to pass the petition on to the Justice and Home Affairs Committee, because they think it may be more able to say what room there might be for manoeuvre and what direction to go in. The petitioners feel that, after 15 years of banging their heads off brick walls and after having gone back and forward to the council a number of times, this is the last resort. At least the Justice and Home Affairs Committee can advise them on what the forthcoming legislation might offer.

**Ms White:** Glasgow City Council has sent a letter saying that Barratt owns the land?

**Mr Gibson:** Yes.

**Ms White:** Has Barratt sent any letters to the petitioners or to Glasgow City Council, saying that it does not own the land?

**Mr Gibson:** Yes. Barratt takes the view that although it owns the land, the 1985 agreement was that the owners of the houses would pay for its maintenance. However, they were then advised that the agreement was not drawn up in a legally binding or competent form and that therefore not only does Barratt own the land, it should pay for its maintenance.

**Ms White:** Deaconsbank is probably not the only area that is affected in that way—I know of other such areas. That is why the petition should go to the Justice and Home Affairs Committee, especially because of the proposed bill. The petition may have brought to our attention a small part of a wider problem. A lot of estates throughout Scotland may be affected in this way and it would be good to get to the core of the problem.

**Mr Gibson:** Yes—to flag it up.

**The Convener:** We need to come to a decision. I think we agree that there is no way the Parliament or any of its committees can become directly involved in a dispute between two parties, especially a legal dispute. We could refer the petitioners to Glasgow City Council to take the planning condition route, as Helen Eadie suggested. We could draw the petition to the attention of the Justice and Home Affairs Committee so that it can take the petition into consideration when the title conditions bill comes before the committee, as Kenny Gibson has requested. We could write to the Scottish Executive and ask whether it has any advice to offer the tenants where to turn next, because the Parliament does not have the power to do anything.

**Pauline McNeill:** Sandra White is right: there might be a few examples in Scotland of title deeds being drawn up in this way. I realise that that pushes our discretion, but there are special circumstances. I would not, however, want us to act on every petition that called on us to do something that we cannot.

**John Scott:** Is there any difficulty in following all three suggestions?

**The Convener:** We could write back and suggest that they approach the council for the planning conditions.

**John Scott:** Further, if there is a particular issue that the Justice and Home Affairs Committee should be made aware of, that would be one way of doing it. I do not see why we cannot write to the Scottish Executive as well and ask for any advice that it might give. I do not see why we cannot do all three things.

**The Convener:** Neither do I. Are we agreed?

**Members indicated agreement.**

**The Convener:** PE316 is from Mr Hector MacLean and calls on the Scottish Parliament to provide the funding and support necessary to design a national berry strategy. The Scottish Council Foundation has recently recommended that Scotland could design a national berry strategy and its report suggested that such a strategy would benefit both the rural economy and public health, as was demonstrated in Finland. The petitioners are calling for a range of actions. Irene McGugan is here to speak to the petition.

**Irene McGugan (North-East Scotland) (SNP):** I have had considerable contact with the petitioners on the matter and have lodged a complementary motion to highlight the potential benefits of a Scottish berry project. The bottom line is that we are in immediate danger of losing the entire soft fruit and berry industry in Scotland.

Boosting the production of Scottish berries would not only benefit the farmers, but help sustain other industries, rural communities and Scottish tourism. Importantly, such a boost would help to improve the health of Scottish people. Experts agree that raising the consumption of fruit and vegetables can lead to a drop in the rate of coronary heart disease.

The Finnish experience is often quoted as an appropriate model for Scotland. Given that Scotland now has the highest rate of coronary heart disease in western Europe and that in the past 25 years the Finns managed to reduce their rate by 50 per cent, it seems to be a model worth adopting.

The difficulty is resourcing. That is not to be underestimated. The Scottish Executive needs to be persuaded of the benefits of adopting a cross-departmental and cross-sectoral approach, which is very effective if it is done with real commitment. That was also the conclusion of the Scottish Council Foundation report, "Healthy food policy: on Scotland's menu?" The report said:

"Such an approach requires a model of governance that is holistic enough to understand the longer-term vision and offer practical support for a strategy which would, by definition, fail to fit within the traditional departmental structures."

I draw members' attention to the fact that the signatories represent health professionals, nutritionists, the soft fruit sector and marketing bodies.

**The Convener:** The very first signatory is from Dundee, which is even more impressive.

**Irene McGugan:** That is where the project originated.

**John Scott:** I must declare an interest because I know Ewan Pate. I support the petition, because the project is extremely worthwhile. We should do all we can to help.

**The Convener:** As Irene McGugan said, there is a question about resources, so it is important for the committee to find out the Executive's position. We should write to the Executive, asking for a response to the issues raised in the petition. In the meantime, a copy of the petition should be passed to the Rural Affairs Committee for information. We can consider the petition further when we receive the Executive's response.

**Helen Eadie:** I should declare an interest, because I am a member of the Co-operative Party. When I was elected, I met farmers from Blairgowrie, who are part of the farmers co-operative that is involved in the project. They were so enthusiastic that I followed up the issue in writing.

I am 100 per cent behind this project, which is a

good example of good practice in Finland. I spoke to Susan Deacon about it and she was also enthusiastic and invited one of the professors over from Finland to speak to various people in Scotland about the project. There is no doubt that it will be first class if people eat more berries, whether it is raspberries, blackberries, cloudberry or whatever. In North Karelia in Finland, which is the area that was specified, the project was a success. I support the actions that you propose to take, convener.

15:30

**Ms White:** I think that this is a marvellous petition. I hope that its proposals are introduced. In Finland, were free berries given to schoolchildren?

**Irene McGugan:** There were free berries everywhere in Finland. In every public building and even in commercial buildings such as airports, bowls of fruit were freely available. In restaurants, whether they are ordered or not, a plate of little berries will be served. The project is big. There is commitment to the idea within the Executive and Ross Finnie and Susan Deacon have made positive noises. We must consider the issue with a wide vision. I predict that the Executive will mention that Ross Finnie is on record offering to support a one-year pilot project. That will take the form of a liaison with a food co-operative in Govan. With respect, the petitioners think that that is far too limited in scope and does not begin to address the national issues and the potential benefits for Scotland. The project that we propose is more wide-ranging and innovative than is currently in the minds of ministers. Without a doubt, there is support for the idea, but that support needs to be carried across into the big picture.

**The Convener:** You are a better MSP than I am if you know what is in the minds of the ministers.

I remind the committee that berries from Blairgowrie would never have been picked if it were not for the people of Dundee, a city which plays a great part in keeping Scotland healthy.

Do we agree with the recommended action?

**Members indicated agreement.**

**The Convener:** We will deal with petitions PE303, PE304 and PE322, which have been submitted by Mr J E Allan, together. Petition PE303 calls on the Scottish Parliament to reverse the decision by South Lanarkshire Council to erect a two-and-a-half storey building on Hunter Street and Montgomery Street in East Kilbride. Petition PE304 calls on the Scottish Parliament to reverse the decision by South Lanarkshire Council to erect dwelling houses at the gap site at Philipshill Road in East Kilbride. Petition PE322 calls on the

Scottish Parliament to instruct South Lanarkshire Council to improve security entry to 80 to 94 Franklin Place in East Kilbride.

The briefing paper suggests that the committee cannot and should not interfere with or overturn executive decisions of local authorities in Scotland. It is suggested that we agree to inform the petitioner that the Scottish Parliament has no powers to do what is requested and that we take no further action.

**Ms White:** I agree, as we cannot do anything else. When you meet the executive of the big council that you mentioned—

**The Convener:** He spoke to me in private, so I did not want to name the council.

**Ms White:** When you meet representatives of the councils, I would like you to mention the number of petitions that we get from people who take issue with planning decisions.

**The Convener:** Are we all agreed to follow the recommendation?

*Members indicated agreement.*

**The Convener:** Petition PE312, from Marion Munro on behalf of the Scottish Pure Water Association, calls on the Scottish Parliament to uphold the decision of the 10 regional councils in Scotland, as stated in 1993, not to add artificial fluoride to the public water supplies. Members will be aware that, during a debate on primary dental care, the then Deputy Minister for Community Care, Iain Gray, announced that, in 2001, the Executive would issue a wide-ranging consultation document on children's oral health, which will set out options for fluoridation of local public water supplies and will explore options such as the use of fluoride tablets or drinks. The consultation document will be circulated widely and will allow full opportunity for individuals and organisations to express their views. It is suggested that we pass the petition to the Executive, requesting that it be taken into account in its forthcoming consultation on children's oral health.

The petitioners have also contacted us to bring to our attention the fact that in 1993 water authorities were removed from local democratic control and placed under the control of quangos. I am sure that members were already aware of that. That means that there is a substantial difference between the situation now and the situation in 1993. Not only the committee but the Parliament should be aware of that. The issue is likely to be raised during the consultation that the Minister for Health and Community Care is to carry out. I am sure that the Executive will take that fully on board if we refer the petition to it.

**Ms White:** I have no interest to declare, but I am whole-heartedly opposed to the fluoridation of

water. I know that Susan Deacon stated that there would be a separate debate on the fluoridation of water. We will hold her to account on that. Iain Gray stated that the Executive would explore other options. Members should be aware of that and keep it in mind for the debate.

I have no problem with the suggested action. However, perhaps when we send the petition to the Scottish Executive we should point out that the water industry is no longer under council control. I am sure that the Executive is already aware of that.

**The Convener:** I am sure that it is.

**Ms White:** We want the Executive to know that we, too, are aware of that fact.

**The Convener:** When we pass the petition to the Executive, we should note that the petitioners have brought this issue to the committee's attention and that we accept that the changes that have taken place since 1993 make a difference. We should ask the Executive to take that on board.

**John Scott:** I am happy with the Executive's commitment to have a debate in Parliament on water fluoridation. There should be a free vote on the issue.

**The Convener:** I second that. Are members agreed on the suggested action?

*Members indicated agreement.*

**The Convener:** Petition PE314, from Councillor Alan D Grant on behalf of the Meikle community day hospital liaison committee, calls on the Parliament to investigate Tayside Health Board's decision to close Meikle community day hospital and to transfer its services to Blairgowrie community hospital. The papers that accompany the decision set out the liaison committee's concerns about that move.

Yesterday the clerks received a letter from the petitioners in which they indicate that the health authorities have moved somewhat on the proposals that they put out for consultation. The authorities have now proposed a range of alterations to their physical plans at Blairgowrie community hospital. It has also been agreed that, given that there is no spare social day care capacity at Blairgowrie community hospital, discussions on social day care provision should take place between the health authorities and the local authority. The health authorities have indicated that, because of the proposed physical alterations, access to the locked Strathmore wing at Blairgowrie will not now be required. That will remove a significant anxiety from nursing staff, who were concerned about how such an interface could be managed.

The petitioners are pleased that those changes have been made, but they have no desire to withdraw the petition. In their view, if they had not opposed the closure of Meigle community day hospital, it is highly doubtful that any of the proposed improvements would have been considered.

The information that we have received confirms that, quite rightly, this issue is being dealt with at a local level. It is not for the Scottish Parliament to interfere with or to overturn executive decisions of public bodies in Scotland. It is therefore suggested, first, that the committee agrees to inform the petitioners that the Scottish Parliament has no powers to take the action that they are requesting; secondly, that the committee suggests that they continue their discussions with the health authorities, which have already resulted in some alterations to the proposals; and, thirdly, that the committee agrees to take no further action. Members will recall that the Health and Community Care Committee has already indicated that it will not take any further action on petitions on matters that it considers to be the responsibility of local NHS trusts and health boards.

**Helen Eadie:** I agree with the recommendations.

**Ms White:** Convener, you know my views on trusts, because I have spelled them out on numerous occasions in this committee. As I am sure the petitioners are aware, there is to be a review of trusts, which I hope will come down on the side of the righteous rather than on the side of the trusts.

**The Convener:** I am sure that trust members will read the *Official Report* of this meeting with interest.

**Helen Eadie:** We all welcome the proposals to which Sandra White referred; we are at one on that.

**The Convener:** Are members agreed on the suggested action?

**Members indicated agreement.**

**The Convener:** Petition PE315 is from Mr William Smith, on behalf of Injustice by the Law. The petitioners originally submitted 10 petitions, which raised several issues that they felt should be acted on. The clerks discussed with the petitioners the importance of considering carefully the number of petitions that they should submit and what they wanted to achieve with the petitions. The petitioners have approached a wide variety of people and organisations on some of the issues, including the UK Government, Buckingham Palace, the Prime Minister, the First Minister, the Scotland Office and the European Parliament. In addition, several issues that the

petitioners raise have already been discussed in the context of other debates in the Parliament.

It is suggested that we agree to note the petitions and to take no further action, unless any member feels strongly about any of the issues that are raised. In that event, they should raise those issues now. It is suggested that the committee agrees that the clerk writes to the petitioners to ask them to consider carefully their approach in submitting any further petitions to the Parliament and suggesting that fewer, more focused petitions on topics that the Scottish or UK Parliaments have not previously considered might have a more realistic chance of success.

If members agree with that suggestion, I can quickly run through the issues that the petitioners raise and ask whether any members wish to discuss them. The first issue concerns health and environment and a cover-up in the west coast fishing industry by HM Ministry of Defence. Does anyone want us to take any further action?

**Ms White:** I have looked through all the causes mentioned in the petition, and they are all worthy of being passed on to someone else or being debated. However, the problem is with the presentation of the petition. Have the petitioners been informed that it would be better to raise each issue in its own petition?

**The Convener:** The petitioners were originally given advice. We will write back to them.

**Ms White:** I am sorry; I did not read that part of the briefing.

**The Convener:** The petitions were originally submitted individually. They all came from the same petitioner and were put together for the committee's convenience.

**Ms White:** I see. I thought that one petition was submitted originally.

**The Convener:** The subjects are diverse and cover a wide range of areas, most of which have nothing to do with the Parliament. The idea is that we tell the petitioners to focus on what the Parliament can do and to petition us on those issues.

**Ms White:** The Parliament can debate anything.

**The Convener:** It can debate these matters, but would that be worth while? It is unlikely that any of the committees would take up many of the issues that the petitioners raise.

**Ms White:** You are making an assumption about what the committees might do.

**The Convener:** I am trying to avoid doing that by taking each issue in turn.

**John Scott:** It would be fair to say that there

has been a misunderstanding here. I was far from clear about what had happened. In fairness, I had not read the petition as closely as I would have if each issue had been raised in an individual petition, because I was not sure what the form was. That is probably my mistake.

**The Convener:** The issues were originally raised in individual petitions.

**John Scott:** I do not think that the diversity of the topics is a reason for not considering them.

**The Convener:** The petitions came from one group. There is a danger that groups will send in batches of 10, 15 or 20 petitions. At that rate, the committee would be overwhelmed. We are trying to encourage people to focus their petitions and to limit the number of petitions that they send at one time. However, the decision is up to the committee. If the committee feels that the petitions should be resubmitted in their original form, that option is open to us. I can also go through each issue and ask whether any member feels that it should be acted on.

**Ms White:** That was why I was confused. Like John Scott, I thought that all the issues were raised in one petition originally.

**The Convener:** The petitions were received from the same people at the same time in the same envelope, but on 10 sheets of paper.

**Ms White:** That was what I wanted to clarify.

**The Convener:** The petition is just a sample. Petitions are being sent not as individual petitions, but as batches that cover a wide range of issues. We can either encourage that or not.

**Helen Eadie:** I do not want to encourage that. If an issue merits consideration by the Parliament, it must be accompanied by supporting views and documentation. To be honest, I do not think that the petitioners have supplied such information. There are many specific headings in the petition, but there is not much meat under the headings. That is my concern. I read what the petition said on some of the issues, some of which I think have already been debated in the Parliament. Others may be worthy of consideration and debate, but it would be better if the clerks wrote to the petitioners and asked them to consider carefully their approach, as has been suggested. That would be reasonable. That is not to say that we are trying in any way to diminish their concerns, or anyone else's, but it makes it feasible to do justice to the concerns that have been raised.

**Ms White:** Sorry to keep going on, but I received these papers only when I came in today—I did not receive them through the post—so this is the first chance that I have had to look at the petition. We are talking about Mr William Smith, who is writing on behalf of Injustice by the

Law. There is only one signature on each petition—the petition is from just one person, not from a group.

15:45

**The Convener:** As far as we know, Mr William Smith is Injustice by the Law.

**Ms White:** None of these points has been clarified for us.

**John Scott:** Notwithstanding that, we have accepted petitions—I suspect more than 10 of them—from Frank Harvey.

**The Convener:** These petitions are similar to the petitions that Frank Harvey sends in, in that they cover a wide range of issues and lack in-depth back-up. For example, the first petition asks us

“to debate the issue of a cover up by the MOD and to find out if the allegations about the weapons dump and toxic seed dressings related to anthrax spores contaminating the shell fish industry are found to be true”.

I have no reason to believe that such allegations have any substance whatever and the petitioners have not provided me with any evidence, so the question is whether there is sufficient reason to pass the petition on to a committee for investigation. I suggest that there is not.

**Helen Eadie:** In addition, some of these issues are probably reserved.

**The Convener:** They are. Of itself, that is not enough to debar a petition from consideration, but the issue is the way in which the petitions have been submitted. I recommend that the clerks write to this person—assuming that the group is in fact a person—asking him to resubmit petitions in a different form so that the committee can deal with them more seriously. If we set a precedent that this format of petition is acceptable, we can expect all kinds of people to start flooding us with lists of 10 petitions covering a variety of issues. Some of them are issues of substance, but others are of less substance.

**Helen Eadie:** I suggest that we agree to that recommendation.

**John Scott:** We are not in any way debarring the petitioner from submitting petitions to us, but if he were more selective in the content and presentation of the petitions, we would be better able to consider them, rather than considering them as a batch job.

**The Convener:** Yes. In fact, the second part of the suggested action is precisely that; it is a form of negotiation with the petitioner, saying that he can still petition the Parliament, but that there is a way of doing so. Shall we proceed with the recommended course of action?

**Members indicated agreement.**

**The Convener:** Petition PE317, from Mr Jim Irons on behalf of Rawlings and Lower Silvertonhill action group, asks the Parliament to request South Lanarkshire Council to adhere to the South Lanarkshire development plan when considering planning applications for Larch Grove and Silvertonhill Avenue open space site, and to undertake to maintain and improve that open space for recreational use. As with the other petitions on decisions by local authorities, it is not for us to interfere in or overturn the executive decisions of local authorities in Scotland. It is suggested that we therefore agree to inform the petitioner that the Scottish Parliament has no powers to take the requested action, and that we take no further action.

**John Scott:** Although I accept that entirely, this is yet another petition about South Lanarkshire Council, as Sandra White has said in relation to another petition. We should keep a tally of petitions about individual councils, because one petition is a coincidence, two is a pattern and three is a trend. There is no smoke without fire, so perhaps we have to examine the number of petitions that we are getting about South Lanarkshire Council. I am making my point in a slightly flippant way, but perhaps we should keep a tally of the petitions about all the councils. If we find that we are getting 30 about South Lanarkshire Council in a year, and only three about another council, there may be a problem.

**The Convener:** Yes, unless someone in South Lanarkshire was encouraging people to petition about the council. We cannot jump to conclusions just because we get a lot of petitions from South Lanarkshire.

**John Scott:** I hope that I am not implying that.

**The Convener:** I want to return to this issue when we discuss the convener's report. I want to talk about how we deal with petitions about not just South Lanarkshire Council, but all local authorities; we have to change the way in which the committee deals with petitions about individual planning decisions and make it known to people that this committee is not the final court of appeal on planning decisions.

**John Scott:** I agree.

**The Convener:** Do members agree with the suggested action?

**Members indicated agreement.**

**The Convener:** The next petition is very different. It is PE318, from Bob and Vera Scotland. It is about mental health services and has more than 10,000 signatures. It calls on

"the Scottish Parliament to take the opportunity presented,

through the publication of its first Scottish Health Plan, to allocate new funds specifically for improving Mental Health Services and Care in the Community in particular."

Members will be aware that a ministerial statement on the Scottish health plan was made in the chamber on Thursday 14 December. Like most members, I have not had the chance to read the statement in full. I know that the organisation of the petition has taken a lot of time and effort on the part of Mr and Mrs Scotland—the committee should take the matter very seriously.

In the first instance, I think that we should write to the Executive, in particular to Susan Deacon, asking her to comment on the issues that the petition raises in the context of the Scottish health plan, so that we can further consider how to pursue the petitioners' points.

**John Scott:** Fair comment, convener. I agree entirely with the petition and its sentiments. I think that our mental health services are significantly underfunded, certainly in my area, and I agree with the suggested action.

**Ms White:** I also agree. During the housing debate, the people who gave evidence expressed their view on the best way forward; it is great that people are presenting ideas about the best way forward for mental health services. Those services are underfunded, and it is good to show the minister that people are thinking about it.

**John Scott:** Mental health services appear to come at the end of the queue for funding. I have to declare an interest, as I have been petitioned strongly by people in my constituency, who have worries about the lack of funding.

**The Convener:** Speaking of coming at the end of the queue, this petition is at the end of today's queue—Mr and Mrs Scotland have sat patiently throughout the whole two hours of this meeting. They should be congratulated enormously for their patience this afternoon, as well as for their huge effort in organising the petition.

**Pauline McNeill:** I agree that they should be congratulated, particularly as they gathered 10,000 signatures. I must ask, however: why are there 10,000 signatures on a petition that refers to a statement that was made only last Thursday?

**The Convener:** The petitioners knew that a health plan was due to be published: the petition was directed towards its publication. It is the experience of all elected members that, despite the claims that are made in public about mental health services being a priority, they are neglected and underfunded. There is insufficient support in the community for people who have relatives suffering from mental illness. This is a very important issue, which Parliament has to take very seriously.

**Helen Eadie:** I support that view, convener. I come from the constituency neighbouring that of Mr and Mrs Scotland—I welcome them to the meeting. I and people in my constituency would welcome the actions that they propose.

**The Convener:** We will write to the Executive, asking for its response. Once we have that, we will consider the petition further. We will keep Mr and Mrs Scotland fully informed of the petition's progress.

## Current Petitions

**The Convener:** The next agenda item is current petitions. Members will note that we have received several responses to various petitions that we have considered. The first petitions are petitions PE119, from Mr C Ogg, and PE280, from the Scottish Allotments and Gardens Society. The first calls for the Parliament

“to ensure that suitable allotments are provided according to statute”.

The second calls on the Parliament

“to establish an Allotments Working Group that would actively protect and promote allotment provision in Scotland.”

Members will recall that we passed the matter both to the Convention of Scottish Local Authorities and to the Scottish Executive, as well as to the Social Inclusion, Housing and the Voluntary Sector Committee, the Rural Affairs Committee and the Local Government Committee. We have now received the response from COSLA, which we will consider this afternoon. It indicates that the City of Edinburgh Council is preparing good practice guidance on allotments and that that guidance, once agreed, will be used as the basis for consulting other councils.

We received a reply from the Scottish Executive that indicated that, although there were no plans to introduce legislation relating to allotment sites, it was considering the role of best practice guidance in relation to allotments. It also indicated that it would be for those councils that are pursuing the transfer of housing to community ownership to consider—in discussion with tenants—the future of allotments that may be affected by that transfer.

Of the three committees that were contacted, the Local Government Committee is the only one that has indicated that it wishes to consider further the issue that was raised in the two petitions. It is therefore suggested that we pass copies of the responses to the petitioners for information, and also that we copy the responses and the petition to the Local Government Committee for its further consideration.

Is that proposal okay?

**John Scott:** No, I am afraid not. I thought about this quite hard last night and I cannot accept it. If crofters, farmers and other stewards of the land have to accept responsible access, why should not owners of allotments? The Executive has not thought about that—that is no one's fault but the Executive's. Unless it includes allotments, it will further reinforce the belief that is held in rural areas that the proposed access laws are to benefit only urban dwellers, at the expense of people in



the countryside. After all, many rural dwellers might be interested in the way that the allotment system works. What is sauce for the goose, should be sauce for the gander, especially at this time of year.

**The Convener:** I have been advised that the original petitions did not deal with responsible access to allotment land, but with the preservation of allotments in urban areas when they had to be moved to make way for industrial developments or whatever. I do not think that the issues that were raised by the petitioners and the issues of responsible access in rural areas are parallel.

**John Scott:** The Executive's response, under the heading of "Land Reform", talks about allotments and responsible access.

**The Convener:** It talks about the land reform bill and points out that the remit of the land reform policy group did not extend to allotments.

**John Scott:** My point is that the remit should have extended to allotments. It is important that the land reform legislation is right. Allotments have been overlooked, as the Executive's response admits. I suggest that the Executive should now consider them.

**The Convener:** But no one is suggesting rights of responsible access, or the right to buy, for allotments.

**John Scott:** I think that that is being suggested.

**Helen Eadie:** The Executive's letter talks about providing for a

"right to buy when rural land comes to be sold, a crofting community right to buy and a right of responsible access."

It talks specifically about "rural land".

**John Scott:** What is the difference between rural land and urban land?

**Pauline McNeill:** Pollution?

**The Convener:** To be fair, the paragraph on land reform in the letter from the Executive came after a request from this committee. We thought that there might be a connection with the land reform bill and the Executive responded to our concerns. The petitioners did not ask about access to allotment land.

**John Scott:** That is a fair comment.

**The Convener:** I take your point, John, but I do not think that there is a direct comparison between the rural and urban cases. The petition is about the preservation of allotments in cities, but no one is making the suggestion that there should be a right to buy or rights of access.

**Ms White:** People want to keep allotments in towns and cities because councils have been selling off the "green lungs", as they are called.

**Helen Eadie:** COSLA's letter on this issue says that

"policy on, and decisions relating to, allotments must therefore be a matter for each council taking account of local needs and circumstances."

I think that the committee would support that view. Otherwise, it would seem as if we were trying to suck up the powers of councils. It has never been Parliament's intention to do that. If legislation is required, that will be our responsibility. However, COSLA seems to have answered the points that were raised.

**The Convener:** I think so. These decisions are local decisions. COSLA will issue guidance and the Executive will issue information on best practice, but the final decisions will be local decisions.

**Ms White:** I am sorry, convener, but I have to go. I have an appointment at five past four. Can I just wish you all a merry Christmas and a happy new year

**Members:** Same to you, Sandra.

**The Convener:** We must remember that the Local Government Committee is pursuing this issue, so we will be able to consider what it does. John, do you accept that?

**John Scott:** Yes.

**The Convener:** Thanks, John.

I did not realise that this is Sandra White's last meeting as a member of the committee. I am sorry. I thank her for the sterling work that she has done in the Public Petitions Committee. She will be sorely missed.

**Ms White:** I have enjoyed it.

**The Convener:** I am sorry to see you leave us.

**Ms White:** It is a shame to give it up, but unfortunately, there was nothing else for it.

**John Scott:** Where duty calls—or danger.

**Ms White:** Have a nice Christmas. Bye.

**The Convener:** John, can we just leave it that then?

**John Scott:** Yes.

**The Convener:** Is the recommendation on the petition agreed?

**Members** *indicated agreement.*

**The Convener:** The next response was to petition 191, on 24-hour police presence at the accident and emergency department of Glasgow royal infirmary. Members will remember that we considered a letter from North Glasgow University Hospitals NHS Trust and agreed to seek further information from it on its consultation with staff

representatives. We have received the response that details the consultation that the trust is undertaking with trade unions on security. The trust has arranged a meeting with the petitioners to enable them to participate in the process. Given that the trust has made arrangements to liaise directly with the petitioners to discuss security concerns, it is suggested that we agree to pass a copy of the trust's letter to the petitioners and take no further action. It seems to me that the trust has moved its position.

**Helen Eadie:** We should welcome that, note it and take no further action.

**John Scott:** I just wonder whether we should ask for the petitioners' response before we agree to take no further action. We should find out whether the petitioners are happy with the trust's response before we agree to take no further action.

16:00

**The Convener:** We did that. We asked for the petitioners' reaction to what the trust said and passed it to the trust, which has now responded. Do you want to ask the petitioners again?

**John Scott:** In fairness, before we decide that the response is fine, we should ask the petitioners again whether they are happy with it. If they are, we will then decide to take no further action.

**The Convener:** When we pass a copy of the trust's letter to the petitioners, we can ask them whether they are happy with it.

**John Scott:** I think that we can couch the question in terms in language that assumes that they will be happy with the response, but we should ask them.

**The Convener:** Is that agreed?

**Members indicated agreement.**

**The Convener:** The next petition is PE252 on funerals and burials. Members will remember that we agreed to copy this petition to the Scottish Executive minister for a response to the issues that are raised in the petition. We have received a long letter from the Scottish Executive explaining that this is a reserved matter, but drawing attention to the roles of the Department of Trade and Industry, the funeral ombudsman scheme, the National Association of Funeral Directors, an to an inquiry by the director general of fair trading in March 1998 and a current inquiry. The reply is fairly comprehensive and we should take no further action, but agree to pass a copy of it to the petitioners recommending that, if they wish to pursue the issue, they should address the DTI, given the reserved nature of the consumer protection issues in the petition. Is that agreed?

**Members indicated agreement.**

**The Convener:** The next petition is from Mr Browning on behalf of various retailers in Polwarth, in Edinburgh. Members will remember that we agreed to copy the petition to the Minister for Children and Education. We have received a detailed response, in which the Executive makes it clear that it is aware of the difficulties that are faced by the petitioners. The Executive has, in recent months, corresponded with the petitioners on the points that were raised.

As the response makes clear, the Executive takes the matter very seriously. The response outlines a series of different forms of action that it is taking. It is clear that there are political differences between the Executive and the petitioners in relation to "It's a Criminal Waste: Stop Youth Crime Now", but the Executive is taking positive action on the petition. It is suggested that we should agree to copy the response to the petitioners and take no further action. We could also suggest to the petitioners that they continue to liaise with Executive officials on the issue. Is that agreed?

**Members indicated agreement.**

**The Convener:** The next response is to the petition from the Friends of Durrus Forest about four-by-four off-road driving in public forests. We agreed to seek the views of the Forestry Commission, and Forest Enterprise wrote to us. We then agreed to seek further advice from Scottish Natural Heritage on the environmental impact of four-by-four off-road driving in forests in Scotland. We also received additional comments from the petitioners. A copy of those comments and a CD-ROM that includes photographs of the areas of Durrus forest that are used for off-road driving are available to members.

Scottish Natural Heritage has set out the response that is before you, and it has enclosed a letter that it sent recently to Aberdeenshire Council and copied to the petitioners in relation to the application for full planning permission for off-road driving in Durrus forest. That letter indicates that if Aberdeenshire Council decides to grant planning permission for the proposal to change the use of forest tracks for off-road driving,

"SNH recommends the adoption of a section 75 agreement to regulate the implementation and management of the proposal".

The environmental statement that was produced for Durrus forest identified potential threats to tracks and SNH agreed that there is some merit in the petitioners' claim of potential deterioration in the condition of tracks. It therefore recommends that Aberdeenshire Council should meet interested parties

"to agree reasonable limits of interaction and potential

conflict between informal recreational users and Land-Rover Highland Experience”

and to agree methods of monitoring.

SNH has gone some way to meeting the wishes of the petitioners. We should send that response to the petitioners and take no further action.

**Pauline McNeill:** To aid that discussion, should we write also to Aberdeenshire Council, asking it to note the contents of the petition?

**The Convener:** I should have informed members that the petition is directly related to a current planning application. It is not within the Parliament’s remit to intervene in that process.

**John Scott:** When we discussed the petition before, I thought that the petitioners were referring to tracks that had been constructed. Having received further information, I agree with the petitioners. I know forests and land, and I think that the petitioners are right to say that there need only be very little traffic for forest glades—what are known as rides—to be cut up and destroyed for walking. I have seen that happen many times. I would have thought that the local authority and Forest Enterprise would want to ensure that the glades and rides that are being used for public access are kept as fire breaks. It is not in their best interests to destroy the fire-breaking ability of rides or to cut the grass and heather uniformly off them. Now that I understand the petitioners’ meaning more clearly, I entirely support their point of view.

**The Convener:** I understand that there was a 12-month trial period before the planning application was made.

**John Scott:** Peat or tundra takes decades to recover if a tracked vehicle travels over it and cuts the surface. That can be seen on satellite images. When we discussed the petition previously, I thought that the petitioners were referring to tracks that had been made.

**The Convener:** You would not object to sending a copy of SNH’s response, along with your comments, to the petitioners and to Aberdeenshire Council, requesting that they be taken into consideration.

**John Scott:** Not at all. I would like the council to take the response into consideration.

**The Convener:** Is that agreed?

**Members** *indicated agreement.*

**The Convener:** The final response that we have relates to a series of petitions. The first is from Sidegate Residents Association and asks the Parliament to investigate the recommendations of a recent public local inquiry into Briary Bank. The other two, which are on the same subject, are from

Mr William Watson and Ian Arnott. We agreed to pass all the petitions to ministers for them to take into account when reaching a decision on whether to intervene in relation to the local plan.

We have now received the Scottish Executive’s response. It states that East Lothian Council submitted to Scottish ministers a copy of its plan in the form in which it proposes to adopt it. After careful consideration of all relevant matters, including the points made by the petitioners, the Executive took the view that the proposed allocation of the site at Briary Bank for housing did not warrant the intervention of Scottish ministers. In a letter to the council, the Executive indicated that it expects the proposed development framework to be prepared in consultation with Historic Scotland’s buildings inspectorate and the Royal Fine Art Commission for Scotland and to recognise the overall environmental quality and character of the area.

In the response to the committee’s request for information on why the reporters at the local planning inquiry recommended that the site was suitable for housing, the reporter indicated that previously—in 1991—the planning committee had been wrongly advised that the proposed developments affected prime land and would be a departure from the development plan. In other years—1989 and 1990—the planning committee agreed that the housing need did not outweigh objections to the design of the scheme. The reporter notes that since then the case for the development, based on housing need, has become stronger than ever.

We have also received the comments of John Home Robertson, the local MSP. It is suggested that we copy the Scottish Executive’s response to the petitioners and take no further action.

**Helen Eadie:** I agree with that course of action. We have received a full response from the Scottish Executive.

**John Scott:** I support that, too.

## Convener's Report

**The Convener:** I must bring a couple of issues to members' attention. The first relates to petition PE319—the national petition against poverty—which was meant to be on the agenda for this afternoon's meeting. On 4 December, just before our meeting in Glasgow, I was presented with a national petition against poverty, allegedly containing 50,000 signatures.

Following an examination of the signatures, it was established that only approximately 8,000 of the 50,000 signatures were genuine; the remainder were multiple photocopies of the other signatures. I agreed that, under those circumstances, the Public Petitions Committee would not formally consider the petition at this meeting, but that I would bring the matter to the attention of the committee and seek its views on the action that should be taken.

I have since received a letter from the chief petitioner, who states that he was not involved in the administrative organisation of the petition, expressing his concern and regret that the actions of others had resulted in this situation. He has asked that the petition be withdrawn and has undertaken to ensure personally that the petition is resubmitted in the proper way. Members' views are invited on the matter.

**Pauline McNeill:** This is a serious matter. I am always wary of such fraud, which is why I asked about the 10,000 signatures—I wanted to be sure that they were valid. In a democracy in which people's petitions matter, it is important to establish that people genuinely support the issues, which is why we ask for people's names and addresses. We must act on the petitions, and the number of signatures sometimes—although not always—influences our decision. There is no question but that a fraud has been committed and that someone somewhere along the line has submitted 42,000 invalid signatures.

**Helen Eadie:** It looks even worse than that, as so many of them are in the same handwriting.

**The Convener:** Even among the 8,000, many are in the same handwriting.

**Pauline McNeill:** What is the name of the organisation?

**The Convener:** The national petition against poverty.

**Pauline McNeill:** Do we know who the organisers are?

**The Convener:** We know which individuals are concerned, although we do not know who they are or whom they represent. They have expressed

extreme contrition over this and claim that they were not directly responsible. They thought that all the signatures were valid.

**John Scott:** I agree entirely with Pauline McNeill. It is up to those who submit petitions to satisfy themselves, in the first instance, that the signatures that they purport to have received are genuine. Although I accept that fraud may not have been the intention of the petitioner—and it was wise of him to withdraw the petition—we should make it clear that we will automatically throw out petitions when we find examples of fraud.

**The Convener:** I do not think that this situation is covered by standing orders. We have no rule, but perhaps we should.

**John Scott:** We should create our own.

**The Convener:** Should we have a sanction against this type of petition?

**Pauline McNeill:** The fraud is so serious that we must send out the message loud and clear that this is not acceptable behaviour. It was never envisaged that this would happen. I would like us to find some kind of sanction that we could take.

**The Convener:** I propose to consider the form of sanction that may be available to the committee and to report back at the next meeting on what such a sanction might be and how it might be implemented.

**Helen Eadie:** Could the clerks investigate a small sample of the signatures? Some people may not even know that their name has been submitted, as many of the signatures are in the same handwriting.

**Pauline McNeill:** There is a question about organisations that are not known to us. We should perhaps seek information on what else they have been up to. The last thing that we would want would be to consider petitions from invented organisations that do not exist. We recognise most of the names that come before us, as they are either individuals or reputable organisations.

**The Convener:** This situation is in stark contrast to the e-petitioner system, in which checks are carried out on all the signatures that are collected. In that system, points are awarded and different criteria must be met before any signature is endorsed. That is a much better system than the one that we have.

The best course of action would be for me to report back to the committee on how we may be able to deal with this situation in future. At the moment, we do not have a sanction at our disposal.

**John Scott:** The fact remains that if the person who submitted the petition did so as an individual,

it would have been acceptable to the committee. There has been an attempt to deceive the committee. That is the crucial issue.

**The Convener:** It has been brought to my attention that a news release was issued—but not covered by the press—to say that a 50,000-strong petition was being handed in to the Scottish Parliament. We have to get the solution right and we should take time to report back.

**Pauline McNeill:** I agree. This might be my last meeting, but I would be happy to give the committee carte blanche to go public, if necessary, to establish that—in the view of the members who have served on it—this is the most important committee for the general public. No one should think that they can behave like that.

**John Scott:** It is to be discouraged.

16:15

**The Convener:** We will deal with the matter at the next meeting.

Members will be aware that we receive a large number of petitions calling on the Parliament to take action on issues that are outwith its remit. For example, today we considered petitions calling on us to intervene in or overturn local authorities' planning decisions and to reverse the decisions of a health board. Those are technically inadmissible, as the Parliament has no powers to take the action requested.

It is suggested that, in future, rather than such petitions being lodged formally and put forward for consideration by the committee in the usual way, the clerks should circulate details of them with meeting papers, informing members of the nature of each petition and why it is considered to be inadmissible. Members will have the opportunity either to agree with the clerks' recommendation that a petition should be considered inadmissible or to decide that a petition does not fall into that category and should therefore be lodged and considered at a future meeting.

**Pauline McNeill:** I have to get the 4.30 train, but I want to say that I am in favour of doing the utmost to ensure that we do not discuss such petitions unless there are special circumstances. It is right to move in that direction, although I am happy to be told why petitions have been rejected.

**The Convener:** Every agenda would include a list of petitions that are technically inadmissible. It would be up to us to challenge that.

**John Scott:** I accept that.

**The Convener:** Is that agreed?

**Members** *indicated agreement.*

**The Convener:** Before Pauline McNeill knocks

off, I want to say that the work that she has contributed to the Public Petitions Committee since she joined it at the beginning is greatly appreciated. She has been a stalwart of the committee, and one of its greatest, most forthright defenders in the Parliament. If she does not come back after the holidays, we will all be very sad. Thanks again, Pauline.

The next meeting is likely to be on Tuesday 23 January at 2 o'clock. That has not yet been agreed by whoever agrees such things, but it will be confirmed by the clerks as soon as possible.

I thank everyone for their attendance and their patience this afternoon and wish them all the best for the festive season. I look forward to seeing everyone in the new year. A big thanks to the clerks for the massive amount of work that they have put into the committee. Without them, this democratic right would not be available.

*Meeting closed at 16:17.*



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