

PUBLIC PETITIONS COMMITTEE

Tuesday 13 March 2001
(Morning)

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PUBLIC PETITIONS COMMITTEE

4th Meeting 2001, Session 1

CONVENER

*Mr John McAllion (Dundee East) (Lab)

DEPUTY CONVENER

*Helen Eadie (Dunfermline East) (Lab)

COMMITTEE MEMBERS

*Dorothy-Grace Elder (Glasgow) (SNP)

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

*Rhoda Grant (Highlands and Islands) (Lab)

George Lyon (Argyll and Bute) (LD)

*John Scott (Ayr) (Con)

*attended

THE FOLLOWING ALSO ATTENDED :

Dave Alexander (Scottish Federation of Housing Associations)

Martin Barnett (Craigmount High School)

Lord James Douglas-Hamilton (Lothians) (Con)

Andrew McPake (Craigmount High School)

Josie Mitchell (Glen Housing Association)

Thea Rae

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Jane Sutherland

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 13 March 2001

(Morning)

[THE CONVENER *opened the meeting at 10:01*]

The Convener (Mr John McAllion): I welcome everyone to the fourth meeting in 2001 of the Public Petitions Committee. We have received apologies from George Lyon, who is tied up and unable to attend the meeting. Dorothy-Grace Elder is on her way from Glasgow and will arrive later. I am glad to say that all other members of the committee are present.

New Petitions

The Convener: Without further ado, we will move on to new petitions.

The first new petition is PE341 on behalf of the student representative council of Craigmount high school in Edinburgh. I invite Martin Barnet and Andrew McPake to speak to the petition.

Good morning. I will explain the process to you. You have three minutes in which to address the committee. When you reach two and a half minutes, I will indicate that you have 30 seconds left. Once you have completed your presentation, we will open up the discussion to allow members to ask questions about your petition. Who is to speak first?

Martin Barnet (Craigmount High School): I will speak first and Andrew McPake will speak second.

The Convener: You have the floor.

Martin Barnet: Should I stand up?

The Convener: Whatever you wish—stand up or sit down.

Martin Barnet: Our petition was organised by students for students and it was signed by students. Our petition is unique because it also includes teachers' opinions—it was signed by both students and teachers.

Teachers were very much against the introduction of the unit assessment system; a recent MORI poll found that 59 per cent of them are still against it. I believe that the unit assessment system is ridiculous. During my higher course, I will have to sit 29 unit assessments, which is a ridiculous number. Should I fail them the first time round, I will have to sit them all again.

That is ridiculous.

The older higher course was stressful—students tried to get grades in order to meet their goals and to get into university or whatever. However, the unit assessment system simply increases the stress and pressure on students. No student can work to their best potential in an atmosphere of stress and anxiety, and unit assessments definitely bring on stress and anxiety.

Today, we are expressing the views of the Craigmount high school students and teachers on the system of unit assessments, which we believe must be changed.

Andrew McPake (Craigmount High School): Unit assessments create an unnecessary culture of fear and anxiety, as students have to work knowing that they might not be allowed to sit their exams. Moreover, teaching time is affected, as staff create a culture of paranoia about the fact that students might not pass the assessments and might not be able to sit the exams. That means that the subjects are not taught in as great detail as they should be, which in turn means that the workers of the future might not be as skilled as the workers of today. In maths, a week will be taken to prepare for the assessment rather than to teach. In my English class, we are studying far less literature than the previous year did. Under the previous system, my English teacher taught her class 12 Burns poems, a Shakespeare drama and a novel. We have had only two McCaig poems and a Shakespeare drama. That is a great reduction.

Unit assessments create a culture of bureaucracy. There is no standardisation, yet there is a long and complex process across the board. Unit assessments also create a culture of cynicism. The system seems to suggest that staff cannot decide whether students are fit to sit the exam and that students will not study continuously throughout the year. When such a lack of faith in students and staff is shown, why should they have faith in the education bodies? I want to get rid of unit assessments because they cause a great deal of animosity and mistrust between staff and students and the governing education bodies.

The Convener: That was excellent. You delivered your statements within the time limit, which is not always the case in this committee. Lord James Douglas-Hamilton, who has a particular interest in the school, has joined us today. Did you want to say anything, Lord James?

Lord James Douglas-Hamilton (Lothians) (Con): Are there simply too many assessments or should there be a totally different system?

Martin Barnet: As I said, I have to sit 29 unit assessments over the year. That is a ridiculous figure. Nobody can pass them all and I will

undoubtedly have to resit some of them. If a student fails them all the first time around, they will end up having to sit double the number of unit assessments. In the past week, I have had four. The system seems to put a great burden on pupils.

Andrew McPake: We would like fewer unit assessments. The petition says that schools should be able to determine the number of assessments that are needed to prepare students for the exam. Beyond that, we would like unit assessments to be abolished. We are against the principle of putting students under such pressure early in the course and against undermining staff with the idea that they cannot decide which students are capable of sitting the exam.

Lord James Douglas-Hamilton: You said that the system is causing students to neglect other subjects. Is it also causing the teachers considerable stress?

Andrew McPake: Definitely. In English, the papers can take hours to mark. We have said that a great deal of undue stress is placed on students and staff by the system of unit assessment. The threat that students will not be allowed to sit the exam is a looming dagger, which comes into play early in the course. That causes the stress.

The Convener: As an ex-teacher, I have every sympathy with that point.

John Scott (Ayr) (Con): Have you taken this complaint to anyone other than the Scottish Parliament's Public Petitions Committee?

Andrew McPake: Initially, the matter was taken to our school's student representative committee. We can present a united front today because the students and staff were able to agree at that meeting. There have been separate staff petitions. The petition that we presented to the Public Petitions Committee is, in a way, an amalgamation of a previous student petition and a previous staff petition.

John Scott: Do other schools perceive the problem in the same way as your school does?

Martin Barnett: They certainly do. Friends and teachers at other schools describe the same problems. The problem is widespread, and we felt that we needed to do something about it.

John Scott: So you would say that the higher still system is not working.

Andrew McPake: Let me clarify that. We are not opposed to higher still, as it provides a constructive course prior to school leaving age. The intermediate 2 means that students who did not receive credit level grades in their standard grades can continue to study beyond fourth year. However, we are opposed to unit assessments.

We would not abolish the higher still course; we simply want to demonstrate what things were like under the old higher, when unit assessments did not exist.

Dr Winnie Ewing (Highlands and Islands) (SNP): I suffer in this matter from the disadvantage of not having been a teacher. I simply cannot imagine what the assessments are like. You said that you have had four in the past week.

Martin Barnett: I have had four in the past week, one of which was yesterday.

Dr Ewing: I want to try to understand what happens. You mentioned written papers. Do you have to sit a kind of pre-exam?

Martin Barnett: I will sit 29 assessments this year. They are shorter than the final exam. If you fail them, you resit them. If you fail them again, you do not get to sit the exam. You are effectively buying your ticket to the exam—that is totally wrong. If you have the ability, a couple of off-days should not prevent you from reaching your long-term goal.

Dr Ewing: Who sets the tests?

Andrew McPake: The unit assessments are what we know as NABs: national assessment banks. They are given out by the Scottish Qualifications Authority, but they are not standardised across the board—not everyone in Scotland sits the same assessment. Students sit similar assessments that test the same skills. Different questions suit different people. In a history exam, for example, some people might not be too smart when it comes to the Munich agreement, but they may know everything about the Spanish civil war. The fact that there is no standardisation is one of the many flaws in the unit assessment system.

Rhoda Grant (Highlands and Islands) (Lab): My understanding was that, under the old system, students worked all year and then sat an exam. If they were having a bad day, they might fail that exam and a year's work would go to waste. The unit system did away with that problem—people are assessed over the year, so that if they have a bad day on the day of the final exam they still have something to show for their year's work and can get some credit for it. Can you suggest a different system that would provide a similar safety net for people who may not perform well at a final exam?

Andrew McPake: We are talking from the point of view of student representatives. When students take away the assessments that they have passed, many of them feel that they are not taking away anything. Sixth years who failed higher stills last year do not feel like they have gained anything, although the fact that they passed their

unit assessments is on paper. The pressure still exists that, on the one day of the exam, students might have a bad day; however, they can appeal on an exam. Unit assessments buy you your ticket to the exam and place pressure on you from an early stage in the course. Students work continuously throughout the year. The question is whether they are working in a state of panic and anxiety or in a state of comfort and positive motivation.

It is not our central concern to suggest a system where students could take something from the course without having sat unit assessments. Many employers do not want to know whether someone has passed the assessments; they want to know whether that person got an A, B or C. That is the real situation for pupils and students across Scotland.

Helen Eadie (Dunfermline East) (Lab): I speak as a parent who has a daughter doing sixth-year studies and who is at the moment matching the stress of her daughter. My understanding of the assessment system is that, if a person does not secure as good a grade at the final exam as they would have hoped, they can, in effect, appeal on the basis of the work that has been done in the year before. I understood that that appeal could result in an upgrading of the final mark.

10:15

Martin Barnett: That tends to happen more with the prelim exams. Technically, prelims are not unit assessments; they are set and marked by the school as a dry run for the big exam. Prelim grades are used more often than unit assessment grades for the purposes of appeal.

Helen Eadie: Are you arguing for a reduction in the number of unit assessment grades? You are not necessarily arguing for a total abolition.

Andrew McPake: We have argued for total abolition. We are not opposed to class tests and we are not opposed to the idea of preparing students for their final exam. We are opposed to the idea that, if a particular test is not passed, that may be the higher over for the student. That thought is in the back of every student's mind when they sit a unit assessment. That is why we are arguing for the abolition of unit assessments. We are opposed in principle to the creation of panic so early in the course or outwith the final exam, as that does not give people the whole year in which to prepare. The unit assessment buys students the ticket to their final exam but, when they take a higher course, they expect to be able to sit the exam anyway.

We are against unit assessments in principle because they take a week out of the course. Maths teachers especially have a terrible fear that

students may not sit the exam and so spend a week going over the work that half the class already knows and that the other half may never have the chance to understand if they fail the assessment. Valuable teaching time is therefore wasted.

We are not arguing directly for a reduction in the number of assessments, although the number—on top of the class tests that are often set anyway—is ridiculous. We argue that schools should be able to determine the amount that is suitable for preparing students for the final exam. That may in itself be a reduction, depending on the school.

The Convener: You have obviously given careful consideration to the idea behind the petition—teachers and students have thought it through and come to this position. Would you accept that, to achieve your aim of abolishing mandatory unit assessments, evidence of unrest among the student and teacher population of Scotland will be needed from more than only one school?

Andrew McPake: Definitely. We hope to be the first of many. I believe that our petition has widespread support across the Scottish education system. If the students and staff of Craigmount high school did not bring their concerns to the Parliament, nothing might ever be done about the matter.

The Convener: That is excellent. We can anticipate more petitions in the future from different schools. That keeps us in business. Thank you very much. We shall now discuss what to do with the petition. You are welcome to sit and listen to our discussion.

Members can see that the recommended action is that we first pass the petition to the Scottish Executive and ask it to respond to the issues raised.

John Scott: I am worried that the problem may not be Scotland-wide. If the problem is confined to Craigmount high school, it is not Scotland-wide. There is nothing new in pupils arguing for fewer exams—I did it myself. If this is a national problem, it is a matter for the professionals. Perhaps they need to re-evaluate their procedures. Let us see what happens.

The Convener: As a first stage, we should wait for the Executive's response to the petition, and then consider further what to do with it. Are members agreed?

Members indicated agreement.

The Convener: I welcome Dorothy-Grace Elder. Are the trains not running properly?

Dorothy-Grace Elder (Glasgow) (SNP): ScotRail is sort of innocent—perhaps not proven.

The Convener: The next petition is PE345 on behalf of the Scottish Federation of Housing Associations. Two representatives will speak to the petition: Dave Alexander, who works for the SFHA, and Josie Mitchell, who is a member of the Glen Housing Association. You have three minutes; the floor is yours.

Dave Alexander (Scottish Federation of Housing Associations): I am director of the SFHA and I thank the committee for giving us the opportunity to present the petition. The SFHA is the voice of the voluntary housing movement in Scotland and we feel that the voluntary aspect is particularly important. The voluntary housing movement supports much of what the Executive is trying to do on housing, particularly its promotion of community ownership and community empowerment. However, the proposal under the Housing (Scotland) Bill to extend the right to buy to housing association tenants flies in the face of that notion of community ownership, which is why it has raised such strong feelings within the voluntary housing movement. There are about 2,400 voluntary committee members in Scotland, who give up their time and energy to run housing associations. About 1,500 of them will be directly affected by the extension of the right to buy and 900 have put their name to the petition. Josie Mitchell, who is the chair of Glen Housing Association, will now speak to the petition.

Josie Mitchell (Glen Housing Association): Our petition outlines the reasons why the housing association movement is against the right to buy. However, it is not simply a list of such reasons, even though some of them are very good; its other element is feeling. The petition is a measure of how strongly committee members feel about the right to buy. No one should make the mistake of thinking that we are against the right to buy because we think that something is being taken away from us; we are against it because we think that something that we stand for is being taken away from us.

We stand for a group of people who have the right to rent and will never aspire to the right to buy. Who says that they should not be allowed access to good-quality affordable housing in the public sector? Has anyone ever considered just who will buy the houses? I can guarantee that the houses will be bought; they will be bought by Mr and Mrs Average with 2.4 children, who will take on a tailor-made mortgage with the added feature of a couple of thousand pounds extra to buy a new car or a holiday. The people whom we are talking about will not be able to afford that mortgage; instead, they will lose both their house and their right to live in the community and they will have to move away. Is that promoting social inclusion or social exclusion?

The housing association that I represent is a small one in Fife. We have 320 properties in the area of Leven, Glenrothes and Methil. At the moment, 23 of the households have the right to buy after a local stock transfer several years ago; however, none of the people has ever exercised it, mainly because the properties are flats and maisonettes. In another area, 20 per cent immediately showed an interest in the right to buy.

When the association started, its aims were long term. The fact that we are offering discounts to people does not mean anything. The truth is that the houses are being taken away from us.

I will finish by asking the committee to think for a moment about what the right to buy means to us. It means that a large number of people will be given the right to own their homes. Although that might sound wonderful, we believe that people also have the right to rent.

Dr Ewing: Excuse my ignorance, but do housing associations cover the whole of Scotland? Are there as many in the Highlands and Islands as there are in the central belt?

Dave Alexander: Although most of the 192 housing associations in Scotland cover quite small geographical localities, they are found in all parts of the country, from Shetland to Dumfries and Galloway.

Dr Ewing: I am interested in the third bullet point in the covering letter, about houses being holiday homes while the locals live in caravans. That is all too prevalent in many parts of the Highlands and Islands, which is of course a beautiful place. Plockton, for example, is dead in the winter because people come for three weeks a year and a lot of the locals cannot get houses.

I have suggested a solution to the problem. We could define what we mean by holiday house in the same way as we define normal and non-normal residence. The Duke of Argyll has to live in Paris because, if he lives in Scotland for more than a certain number of months, he would have to pay taxes. We could use similar financial laws to say that, when a house becomes a holiday home, it requires a change of use—it should be defined in the same way as things are defined for tax purposes. That would give local authorities the right to say whether someone could change the use of a house to a holiday home. If councils wanted to be re-elected, they would have to be careful not to grant too many changes of use. That is my long-term solution, but I have not yet been able to get anyone to pass a law to that effect. Is there a real threat to the housing associations in the Highlands and Islands?

Dave Alexander: The feelings about the extended right to buy have been especially strong in the Highlands and Islands, because of what has

happened with right to buy in the council housing stock. Right to buy has decimated the supply of rented housing in communities in the Highlands. That explains the origins of some of the rural housing associations, such as Lochalsh and Skye Housing Association and Lochaber Housing Association. Those associations were set up to provide a pool of rented accommodation, because council rented accommodation had been sold off. The activities of those rural housing associations will be affected by an extension of the right to buy.

Helen Eadie: I notice from the committee paper that you have given evidence to the Social Justice Committee at stage 1 of the Housing (Scotland) Bill. I also notice that Jackie Baillie has endeavoured to go some way towards meeting your concerns by, as the paper says,

“introducing into the Bill provision to allow 10 year exemptions from the Right to Buy which can be further extended upon application.”

What is your reaction to that?

Dave Alexander: We welcome the changes that were introduced last summer, which answer some of our concerns. However, the 10-year delay in the full implementation of the right to buy for housing association tenants merely delays the impact. Housing association committees take a long-term view of the needs of their areas. It is not sufficient to delay the impact by 10 years. There is every risk that in 10 years a large number of tenants who have accumulated the discount entitlement will exercise the right to buy and cause great problems for the housing association committees.

Josie Mitchell: One of the reasons why the housing association movement started was that the areas in which we live were run down. The movement is about building up the communities. I started this work 10 years ago. I said that it was a long-term plan—for my children and my children's children—to have the right to a house. People do not just want a flat; they start with a flat and, when they get married and have children, they aspire to have a house and hope to be able to rent it if they so choose. The bill takes away those choices from people.

Dorothy-Grace Elder: The Executive has stated:

“The Bill will also now allow all registered social landlords who obtained charitable status before January 2001 to be exempt from the right to buy.”

In general, do the Executive's moves towards your position count, or are you sticking to your original case?

Dave Alexander: In Scotland, about a third of housing associations are charitable. It is interesting to note why only a third are charitable: the majority are community controlled and there is

a perceived incompatibility between community control and charitable status. In England, where that condition does not apply, a much larger percentage of housing associations have charitable status. That is an interesting twist.

The exemption of charitable housing associations continues their current special status—their position is not changed. However, we are worried that any organisation that becomes a charitable housing association after 1 January of this year will not be exempt from the right to buy and will be obliged to sell its houses to tenants.

Josie Mitchell: Glen Housing Association is not a charitable housing association.

Dorothy-Grace Elder: So your view has not changed.

Josie Mitchell: No.

10:30

John Scott: If you believe that the bill's proposals on pressured areas are inadequate, what suggestions do you have for improving them?

Dave Alexander: The pressured area concession was another concession introduced by the Executive when people were thinking about the right to buy. It was introduced to protect areas that would otherwise lose their housing stock.

Pressured area status depends on the local authority making an application. Our fear, which was reflected in the evidence that was given by the Convention of Scottish Local Authorities to the Social Justice Committee, is that few such applications will be made. The evidence that is required to back up an application is quite onerous and bureaucratic.

John Scott asked how the procedure could be improved. I believe that there is scope for introducing a much simpler pressured area designation procedure that would protect communities and be much more open to the communities, so that they could make applications rather than relying on local authorities to do so on their behalf.

John Scott: Would you like to comment on the provision of grants to allow people in those areas to buy private sector housing rather than housing association stock?

Dave Alexander: At an early stage, the SFHA suggested that alternative ways existed to promote home ownership. I emphasise that the housing association movement is not against home ownership. We advocated a form of cash incentive scheme that would allow tenants to buy on the open market as an alternative to buying the house that they rent. That would allow people to

achieve home ownership without eating into the supply of scarce social rented housing stock. We would support such a scheme.

The Convener: An argument that has been used against those who want to drop the extension of the right to buy is that only housing professionals want to drop the extension, while tenants support it. What is your reaction to that?

Josie Mitchell: I am a committee member and a tenant, and I believe that people on the street do not really understand what the debate is about. They just think that they will be able to buy their house and do not take into consideration what that might mean. People are selfish in that respect—they think only of themselves.

Committee members take a wider view—we look at the whole community. That is why we are against the right to buy.

The Convener: Are all committee members tenants?

Josie Mitchell: Fifty per cent of our committee members are tenants.

The Convener: Are the 900 people who signed your petition both tenants and non-tenants?

Josie Mitchell: Yes—there is a mixture of both.

Dorothy-Grace Elder: Should what your petition calls for be seen against the background of mass housing stock transfer in places such as Glasgow? The stock transfer that is proposed by the Executive and Glasgow City Council would hand over tens of thousands of council houses to the financial market and would end council housing as we know it. Are you concerned that you are part of that wider picture of the loss of what might be called true publicly controlled housing?

Josie Mitchell: The housing association of which I am a tenant began as a stock transfer, albeit a small one. I might be frightened of a larger-scale transfer, never mind anyone else. However, I do not think that that is our fear. Our concern is that we should educate people about what taking control of something means.

Dorothy-Grace Elder: I was referring to the issue against a background of mass housing stock transfer, rather than the smaller transfers that have taken place for years.

Dave Alexander: We have concerns about the scale of stock transfer and whether the stock transfers that are being considered represent genuine opportunities for community ownership. I emphasise that we support strongly what the Executive is trying to do in terms of community ownership, but it is hard to see how some of the initiatives that are being discussed and promoted can deliver genuine community ownership.

The Convener: Do you have any questions to ask, or points that you wish to make?

Dave Alexander: No. Thank you for having us.

The Convener: Thank you. The question-and-answer session is over, so we will now consider what to do with the petition.

Given the SFHA's already high level of involvement in the Housing (Scotland) Bill, and the fact that the Executive appears to have moved some way to address the concerns, it is suggested that we pass a copy of the petition to the Social Justice Committee and ask that committee to consider it during stage 2 of the bill, and that we take no further action. That would be appropriate.

Rhoda Grant: Can we send a copy to the Executive as well?

The Convener: Yes.

John Scott: Can we remove the bit about taking no further action? Let us see what response we get before we decide to take no further action.

The Convener: It is not easier for the clerks if we say that we will leave it, but you are right.

John Scott: The petitioners are raising the issue of rural housing associations' problems. The long-term sustainability of those housing associations is at stake. The Parliament must consider that carefully.

The Convener: That is a fair point. The petition will remain active and we will continue to monitor it as it goes through the Parliament.

Dorothy-Grace Elder: Could we point out in the note to the Executive that the petitioners have noted and studied the Executive's moves, but have rejected them? There is particular concern about the 10-year situation, which would just move the issue 10 years down the line.

The Convener: It would be possible to include that in the note to the Executive. Is that agreed?

Members indicated agreement.

The Convener: The next petition, PE343, is from Thea Rae; it calls on the Parliament to review and amend the law pertaining to contracts between building companies and their clients. Thea Rae is here this morning, but I believe that she does not want to address the—

Thea Rae: I was told that what I wanted to let you know was not what you wanted to know. Perhaps you will find out all that you need by asking questions.

The Convener: Okay.

Everyone has the papers. I am an ex-teacher and, unlike Winnie Ewing, I am uninformed about the law. Thea Rae's petition concerns contracts for

the transfer of ownership of heritable property. A contract of sale gives a buyer a right to a property, and that right is enforceable against the seller, but full ownership is passed only on completion of the conveyance of the property. You were buying a house from a builder, were you not?

Thea Rae: I am buying a house from a builder.

The Convener: And you entered into a contract with the builder.

Thea Rae: Yes. I had only a verbal contract about when I would get into the house, which I was told would be at the end of April last year. Three weeks before then I moved up from Norfolk, where I had sold my property, to come back to Ayr. I lived in my mother's house, which, luckily, my son was living in, but I intended to live there for only three weeks until I moved in to my new property. Nobody said, "Don't hurry. It will not be ready." Here I am, almost a year later, and I am still not in the building, nor is anybody else.

I have a file of letters from the builder, who is always revising the entry date. I keep being told, "Have your money ready" and "Keep in touch with the site." I have been given at least four different dates. The builder does not write back to say that he is sorry that the date has gone by or to explain why. The letters are always a blanket response that the situation is due to circumstances outwith his control. In November, when I was thoroughly sickened by the whole process, I tried to get out of the contract.

I received a strong letter from the builder's lawyers in Glasgow saying that he will not allow me out of the contract and will pursue me by every means at his disposal to ensure that I hold to it.

If I had been a large company asking for a huge building contract, I would not have accepted the contract with no end date, or whatever the phrase is. My builder cannot be held to the date that was set. If I had been a big buyer, I would not have agreed to that. However, as a small individual, I would have had no chance. The builder would just have said, "Go away. We can easily find somebody else to buy this property in the desirable new area that we're setting up." So I am trapped.

The Convener: I remind members that we must be careful not to get involved in the particulars of this case, as it could end up in court at some point.

You are pursuing, through your petition, the general principle that the contract of sale between construction companies and individuals should be amended to allow individuals to get out of the contract.

Thea Rae: Yes. At the moment, the law is weighted in favour of big business, and I do not intend that the case should ever come to court.

The Convener: Just in case it does, we have to be careful.

John Scott: Bearing in mind what the convener has said, I shall have to modify the content and tone of what I was about to say.

The development in question is in my constituency. Mrs Rae is not alone—many other people are in the same situation. They have not been able to get access to the buildings, although they were led to believe that they would be able to get access to them in the time scale that Mrs Rae described. It has been a source of great annoyance and contention in the constituency and I believe that the law needs to be changed as the petitioner suggests; at the moment, the law does not favour people such as her in any way.

The case has gone beyond the point of being reasonable. It is now unreasonable. Mrs Rae is lucky in that she has somewhere to stay. I have other constituents who have, in effect, been made homeless by the inadequacies of that building firm. They have had to live in rented accommodation and their money is running out. That has been the situation for longer than a year; in some cases, it has been going on for 18 months. It is not good enough.

The Convener: We are asking the petitioner questions at this stage. We can discuss the case afterwards.

Rhoda Grant: I am not sure whether you can answer my question. If a big company were ordering a building to be built, there would be an end date in the contract, and penalties and get-out clauses would apply if the work was not completed. Is it possible for someone who is buying a property on a housing estate to have such penalties included in their contract, or has that facility just been overlooked by the solicitors in this case because they thought that the penalties would not be needed?

Thea Rae: I do not know that that facility is not available, but I am fairly certain from the way that the builder was selling the houses—very quickly, before there was any show house or anything for us to see—that he would not have been interested in my saying, "Put in a penalty clause." He would not have accepted that from me because he knew that he had 121 of his 157 houses sold when I started the contract with him a year ago in February. He was not short of buyers, so he would not have been interested in that side of things.

Rhoda Grant: So the builder would not have accepted an offer to buy under those conditions?

Thea Rae: I do not know that, but I feel perfectly certain that he would not. He did not have to.

Dorothy-Grace Elder: Slow-builder syndrome can wreck someone's life. Your situation seems to

call for a change in the law. You have touched on a running sore, probably throughout Europe rather than just in Scotland. The fact that there was no penalty clause is important. As you say, the houses were being snapped up. Although we do not delve deeply into individual cases, we are talking about one modern house on a new estate, all built by the same builder. You are not aware whether other people are having the same problem.

Thea Rae: I am, because it is not a house but a flat. It is in a block of 150-odd flats, and none of the buyers are in.

Dorothy-Grace Elder: There are 150 flats?

Thea Rae: I think that there were 152 flats in that phase of the development.

Dorothy-Grace Elder: And their completion has been delayed.

Thea Rae: Yes. They were supposed to be the first block to be completed, but they will now be the last.

Dorothy-Grace Elder: Was no reason whatever given for the unreasonable delay—bad weather or something like that?

Thea Rae: No.

Dorothy-Grace Elder: I think that your case is similar to that of someone who is buying or renovating an individual house. Lives can be harmed equally in those circumstances.

10:45

Dr Winnie Ewing: The difficulty in changing the law is that contract law is a specific kind of law, in which the parties to the contract make the law. The answer might be, "If you don't like the contract, don't sign it." I do not know whether you consulted a solicitor. If you had done so, the solicitor might have told you that the contract gave you no rights if the builder delayed.

Thea Rae: I consulted a solicitor, who did not alert me to that possibility. He did not think that that would happen. Delays are not usually as long as this; the delay has been 18 months for some people.

Dr Ewing: I understand your problem. However, contract law is made by the parties and you were a participant in making a bad bargain. I do not know what the law can do to rescue you from that situation. I do not think that the law will be changed to say that, if one party to a contract behaves unreasonably, the other party will be allowed to withdraw from the contract. That option was not specified by you when you entered into the contract, and I do not know what the law can do to help your situation.

The Convener: We can discuss the matter when we have finished our questioning.

Helen Eadie: What role did your building society play? I had a house built, and the building society laid down strict regulations about the staging of payments. Payments were released to the builders only on the basis of certain progress having been made—I think that there were three separate stages. Were any such terms agreed?

Thea Rae: No building society has been involved. I paid only an initial deposit, which I was willing to forgo to be released from the contract, but the builder would not accept that. I did not need to involve a building society, as I had sold a house.

Dorothy-Grace Elder: You said that 152 flats have been delayed by around 18 months. Does that mean that there are 152 buyers? Are all the flats sold?

Thea Rae: I do not know. In February 2000, 121 had been sold—at least, that is what the builder told me.

Dorothy-Grace Elder: So, at least 120 people are in the same position as you. Have you formed an action committee or generated publicity about the issue?

Thea Rae: I do not know how to contact the other buyers. I have spoken to John Scott about the matter, but I do not know how to get in touch with more than two other buyers whom I happened to encounter through a casual contact.

Dorothy-Grace Elder: We cannot go into this in detail, but I suggest that you go to the newspapers with your story. Other buyers would probably come forward.

Thea Rae: I approached the newspapers, but they were not interested. The local paper has run the story twice, but it did not get back to me when I approached it.

Dorothy-Grace Elder: You should have sought more legal protection when the contract was being drawn up. Lawyers can foresee that things might happen.

Thea Rae: Yes.

The Convener: Was the contract that you entered into with the builder a standard contract that was available to all the people who bought flats?

Thea Rae: I do not know. I presume so.

The Convener: It is a buyers' market, is it not?

Thea Rae: No, it is a seller's market.

The Convener: Yes. Sorry. So, you felt that you had no alternative but to enter into the contract

that you were offered, and your solicitor did not warn you about the possible outcome.

Thea Rae: No, he did not. I read the contract, but I did not think that any builder would be a year to 18 months behind schedule.

John Scott: Would you like to discuss the assurances that you have been given about when you will be able to move in, and about the development of the project?

Thea Rae: I can give you the letters from the builder, which specify the various dates when the flat was going to be ready. The latest letter says:

"We are pleased to confirm we are nearing completion of your property and have arranged a programme of inspection with Building Control and The Fire Authority commencing 7th February through to 14th February. This would allow Habitation Certificates to be issued prior to Friday 16th February".

I have received nothing to say why that did not take place.

John Scott: Do you have other similar letters?

Thea Rae: Yes, I have letters that go back to last June.

John Scott: Do they contain assurances that you would gain access to your property?

Thea Rae: Yes. The developer's letter saying that I would not be let out of the contract "as completion is imminent" was dated November.

The Convener: This is serious. The committee will now discuss what to do with the petition. The point is that in law the onus is on the buyer's solicitor to examine the contract and missives on behalf of their client, to ensure that their client's interests are not likely to be compromised, before recommending that the contract and missives be agreed. However, given the circumstances, I suggest that we try to get an Executive response, as it cannot be right that people are being left in this situation. I take Dr Winnie Ewing's point about the law, but the law has to show common sense.

Dr Ewing: I was in the same situation as Mrs Rae is in when my husband bought our flat in Edinburgh. What happened to Mrs Rae also happened to me, but it was a seller's market and the developer encouraged us to get out of the contract so that the flat could be sold at a higher price. If it is true that Ayr is also a seller's market, I find it rather strange that the developer will not let Mrs Rae out of the contract, as it could find another purchaser.

John Scott: I would not want to go into the specifics of that.

Rhoda Grant: In somewhere such as Ayr, people should be aware of the situation and avoid getting involved in such an arrangement.

John Scott: The delay that the petitioner has experienced has gone beyond the bounds of being reasonable. I accept Dr Ewing's point that there was a willing buyer and a willing seller and that the contract was freely entered into. Nonetheless, the delay is unreasonable, not just for Mrs Rae, but for the others who have been seriously disadvantaged by this delay.

Helen Eadie: I agree with my colleagues. I have the utmost sympathy for Mrs Rae and can tell her that she is not alone. I could give her chapter and verse of similar situations in my constituency. We are not able to name and shame the developer today, but that is what we should do in such situations. If the public are alerted to builders and developers who do not keep their word, the public can vote with their feet and not go anywhere near them.

I also suggest that Mrs Rae take advice from the Law Society of Scotland, because, if a lawyer has not fully examined a contract and missives, they ought to have done so. Mrs Rae might also like to contact Mr Mike Robinson, the area co-ordinator for west Fife at Fife Council, because the council has just produced a charter giving a lot of advice to house buyers.

Rhoda Grant: I suggest that the committee contact the Law Society of Scotland, as it may take a long time to change the law. However, if the Law Society became involved, it could advise its members that they should include an end date and penalty clauses in contracts of this kind. As Mrs Rae said, if all lawyers did that and all offers to buy had the same conditions, the developer could not pick and choose which offer to take.

The Convener: The clerk has suggested that we send a copy of the petition to the Law Society, asking it to comment on the particular point that solicitors are not giving proper advice to buyers.

Rhoda Grant: If everyone changed the way in which they worked, the developer would have no choice.

The Convener: We could ask for the Law Society of Scotland's views on that.

Dorothy-Grace Elder: Buying and selling is an absolute nightmare and lawyers often give inadequate advice. I suggest that the convener pass copies to the Executive of the letters that Mrs Rae has received. I wonder why we cannot name the building firm concerned.

The Convener: For legal reasons.

Dorothy-Grace Elder: Lawyers again. Lawyers and builders—we have a real load today.

The Convener: If the letters are made available to the clerks, we will pass them to the Executive.

Dr Ewing: Could we ensure that the Law

Society gets a copy of the interesting charter for house buyers that Helen Eadie mentioned? It sounds very good.

The Convener: If it is readily available.

Helen Eadie: It will be.

The Convener: Do we agree to follow the recommended action, along with the additional action that we have discussed?

Members indicated agreement.

The Convener: Petition PE342 is from Neil Kay. We also have a letter from Alex Johnstone MSP, who supports the petition. The petition calls on the Scottish Parliament to consider framing national guidelines for school closures that are at least as fair and comprehensive as those adopted in England and to ask councils to consider deferring decisions on any school closures until those new guidelines have been established. Alex Johnstone's letter basically says that he supports the petition and calls on the Public Petitions Committee to lend its support.

This petitioner has submitted other petitions, which we have passed to the Education, Culture and Sport Committee. Jamie Stone produced a report on rural school closures, which was sent to COSLA. The complaint now is that, since COSLA received the report, nothing has been done and the Education, Culture and Sport Committee has had no response.

The Scottish Parliament cannot overturn the executive decisions of other public bodies or ensure that the decisions on school closures are deferred. However, because of the lack of response to the report of the Education, Culture and Sport Committee, we could pass the petition to that committee and ask it to consider it and respond directly to the petitioner.

Rhoda Grant: I support that. I am aware of the situation in Argyll and Bute that the petition deals with and know that the information that was being sent out to parents was that, although the capacity of the school in question was a certain number, considerations arising from composite classes and so on meant that only a lesser number could be dealt with. The issue of composite classes is reasonably new and I think that the guidance to local authorities needs to be reconsidered.

Dorothy-Grace Elder: The English system, which the petitioners have kindly outlined, seems to be a good one. A presumption against closure was introduced in 1998.

Has Jamie Stone's report been made public? I have not seen it. With COSLA dragging its heels, it might be useful if it were made public. Eight years ago, I checked on the number of rural school closures. Within the previous 20 years, more than

200 had closed. Again, that is tied to the holiday cottage syndrome, although not to the issue of settlers, who settle in areas and send their children to the local schools.

The English proposals are good. England is trying to save its rural schools while we let ours close one after the other.

The Convener: Jamie Stone's report has been published by the Education, Culture and Sport Committee and is available publicly. It is important to note, as the petition does, that the report has not been acted on by COSLA. The Education, Culture and Sport Committee is the proper place for the issue to be considered further and it is suggested that we send the petition there.

Dr Ewing: Shetland avoided a school closure by finding a teacher with five children.

Rhoda Grant: That could be seen as discrimination.

The Convener: Do we agree to pass the petition to the Education, Culture and Sport Committee and ask it to respond directly to the petitioner?

Members indicated agreement.

The Convener: Petition PE344 is from Thelma McCaffery, on behalf of the Highland movement against water fluoridation, and calls on the Scottish Parliament to institute a research programme into the effects of fluoride in water supplies on the human body.

During a debate on the subject last year, the Deputy Minister for Community Care announced that, in the new year, the Executive would issue a wide-ranging consultation document on children's oral health that would set out all the options for the fluoridation of local public water supplies and explore other options, such as fluoride tablets and fluoridated drinks. The document will be circulated widely and will allow individuals and organisations the opportunity to express their views.

We considered a petition by the Scottish Pure Water Association. We agreed to pass it to the Executive to be taken into account as part of the consultation on children's oral health and to take no further action. It is recommended that we agree to pass this petition to the Executive to be taken into account as part of the forthcoming consultation and take no further action. The petitioners can, as part of the consultation, make their views known to the Executive. Is that agreed?

Members indicated agreement.

Current Petitions

11:00

The Convener: The first two petitions are PE195, from Irvine pensioners action group, on the reduction of full-time warden cover in sheltered housing, and PE209, from Age Concern Dundonald, on changes or reductions in elderly care in South Ayrshire. We passed the petitions to the Social Inclusion, Housing and Voluntary Sector Committee, which asked us to seek further information on whether the issues raised in the petitions are of national concern.

The committee clerks have done an enormous amount of work, and have received responses from a range of organisations: the Scottish Executive; COSLA; the Chartered Institute of Housing in Scotland; Age Concern Scotland; Help the Aged; North Ayrshire Council; South Ayrshire Council; Mike Russell MSP, who originally spoke to the petitions; and Irene Oldfather, who is the local constituency MSP.

The responses are varied, and point towards a number of factors causing the reduction of full-time warden cover in sheltered housing: new technology; more cost-effective ways of providing the service; increased specialisation for wardens; changes in emphasis to individual care provision; and the European working time directive, which limits the amount of time wardens can be on call.

We have had various responses from the organisations. Whereas the Executive, COSLA and the local authorities stress that this is a matter for local decision, Help the Aged, Age Concern and the Chartered Institute of Housing have said that no one has carried out any research on the impact of the changes on the elderly in sheltered housing. It is suggested therefore that we pass the petitions back to the Social Justice Committee and recommend that it consider investigating further the impact of the removal or reduction of warden services and whether the provision of alternative means of care and support, such as electronic technology, has been successful in those councils that have already made changes.

Helen Eadie: I agree.

John Scott: I agree too. There must be some benchmark.

The Convener: No one has considered the national picture—everyone is working locally.

John Scott: Exactly. There is no standardisation or uniformity of service. I suspect that that means that there is inconsistency of service. As Mike Russell pointed out, there is fear and discontent among the residents of sheltered housing about the withdrawal of warden cover.

Dorothy-Grace Elder: It is definitely a national issue. In April or May, North Ayrshire Council will be doing an audit of how the service is working. It might be appropriate to ask the Executive whether it will ask all councils for an audit of how services are working, or some form of independent input. We do not want to hear only the word of the councils, which will say, "This is wonderful. Everybody loves it."

The Convener: That is an issue that the Social Justice Committee will have to address as part of its consideration of the petition. I hope that that committee will do that and that it will read this discussion.

John Scott: There is another issue at stake here. Some—possibly mischievous—people have suggested that because sheltered housing is no longer as sheltered as it was, it should be available on a right to buy basis. They suggest that it is only council housing. That point needs clarification at the very least, especially with regard to the Housing (Scotland) Bill.

The Convener: That is not part of the petition.

John Scott: I grant you that.

The Convener: However, that is interesting; I am sure that the Social Justice Committee should be aware of that development. The petition should go back to that committee so that it can consider the national picture and carry out research into the impact of the changes.

Members indicated agreement.

The Convener: The next petition is PE264 from the Scottish Private Investigators Forum, which urged the Scottish Executive to pass a private investigators registration bill. At a meeting back in September, we agreed to pass the petition to the Minister for Enterprise and Lifelong Learning and, for information only, to the then Justice and Home Affairs Committee. We have received a response from the Executive, which indicates that there is some doubt over whether regulation of the private security industry is devolved or reserved. The Executive hopes that the doubt will be resolved shortly and it intends to introduce proposals to regulate the industry. The proposals will be open to consultation, and industry representatives, the police and local authorities will be asked for their views. However, any new regime that is introduced here would have to take account of the arrangements that are being proposed in the Private Security Industry Bill at Westminster.

It looks as though the Scottish Executive is proposing action on the issues that were raised in the petition. It is suggested that a copy of the Executive's response, and any future correspondence, be passed to the petitioners and that no further action should be taken.

Dr Winnie Ewing: I notice that the Executive's letter of 16 February refers to the proposals in the Home Office's bill for England and Wales only. I would be interested in seeing a copy of that bill. Once upon a time, I was a criminal lawyer to trade and had a lot to do with private investigators. At that time, anyone could be a private investigator—all you had to do was call yourself a private investigator. Those people often intrude on other people's privacy, so there probably should be some regulation.

The Convener: That is exactly why the petitioners have petitioned the Scottish Parliament. They want some regulation of the industry. Through the Scottish Parliament information centre, we will get a copy of the Home Office bill for committee members.

Do members agree that we do as has been suggested?

Members indicated agreement.

The Convener: The next petition is PE277, from Mr David Emslie, which called on the Scottish Parliament to initiate a public inquiry into the administration of Grampian Housing Association Ltd, with a view to the introduction of legislation to allow the monitoring and audit of housing associations in Scotland.

We passed the petition to the then Social Inclusion, Housing and Voluntary Sector Committee and we agreed to write to the Scottish Executive. We have received a response from the Executive outlining the "unique" circumstances of Mr Emslie's rental contract. Issues that had arisen under that contract have now been resolved. The housing association ombudsman for Scotland has also dealt with 10 other complaints from Mr Emslie, only one of which—on delays in repairing water leaks in his house—was upheld.

The regulatory and supervisory role that will be undertaken by Scottish Homes once it becomes an executive agency is under review as part of the development of proposals in the Housing (Scotland) Bill. The Scottish Executive response also states that Grampian Housing Association Ltd was last monitored by Scottish Homes in September 1999, when it achieved an overall grading that indicated above-average compliance with performance standards.

The constitution and operating principles of the housing association ombudsman for Scotland are also being considered as part of the wider consultation exercise on arrangements for dealing with complaints of maladministration against the Scottish Executive and other Scottish public authorities.

The committee—now the Social Justice Committee—advised us that it had taken evidence

in this regard during work on its report on housing stock transfer, and that it would take further evidence from tenants' organisations at stage 1 of the Housing (Scotland) Bill. The Social Justice Committee wanted us to keep it informed of responses from the Scottish Executive. It has received directly a copy of the response that was sent to us.

It appears that the issues that the petitioner raised are either being addressed by the Scottish Executive or will be considered by the Social Justice Committee during its consideration of the bill. It is suggested that we request that the Scottish Executive ensures that Mr Emslie's views and concerns are taken into account as part of the review of the regulatory and supervisory role of Scottish Homes. It is also suggested that the committee agree to pass a copy of the response to the petitioner and take no further action. As I said, the Social Justice Committee has a copy of that response; it is therefore further suggested, in view of that committee's interest in the issue, that it be informed of our decision.

Members indicated agreement.

The Convener: Petition PE295, from Mr Alex Murray, on behalf of the Silverknowes residents action group, called on Parliament to urge the City of Edinburgh Council to review its plans for the relocation of the football pitch on Silverknowes Green and to ensure that future planning applications allowed sufficient opportunities for interested parties to voice their concerns.

The committee passed the petition to the Transport and the Environment Committee for consideration as part of its proposed inquiry into the planning system, which is now going ahead. We also agreed to send a copy of the petition to the City of Edinburgh Council for information and to seek its comments on the issues that had been raised, particularly on compliance with the European convention on human rights.

As members can see, we have received a response from the City of Edinburgh Council in which it claims that it consulted widely on the proposals. It claims that the football field is part of the council's education public-private partnership project and therefore cannot be retained as the petitioner suggests.

The council also believes that its proposals are consistent with the European convention on human rights and points out that, when the petitioner petitioned Parliament, the council also received an objection from the petitioner. A sub-committee considered the objection and agreed, as the council's letter says, to

"refer the application to the Scottish ministers, prior to determination, because of the fact that the interests of the Council were involved and were the subject of objection."

As the council's letter says, the Scottish Executive wrote back to indicate

"that planning permission was deemed to have been granted by Scottish Ministers"

and that the decision was made by the Executive in the knowledge of Mr Murray's concerns. As Mr Murray stated in a message to the council, he was contacting MSPs.

Mr Murray has referred the issue to the Commissioner for Local Administration in Scotland. It is not in the committee's remit to question the decisions of other public bodies. Given that we have passed a copy of the petition to the Transport and the Environment Committee, which is considering it as part of its inquiry into general planning issues, and given that the petitioner has referred the issues to the Commissioner for Local Administration in Scotland—which we think is the correct route through which he should pursue the matter—does the committee agree that we should simply pass a copy of the City of Edinburgh Council's response to the petitioner and take no further action? I do not think that there is anything else we can do. Are members agreed?

Members indicated agreement.

The Convener: The next petition is PE306, from Mr Thomas Minogue, which asked the Parliament to request that all members of the judiciary declare membership of organisations such as the freemasons and that a register of such interests be made available on request.

At our meeting on 19 December 2000, we agreed to seek comments from the Lord Advocate and to seek information on the current situation in England and Wales. We received a response from the Deputy First Minister and Minister for Justice, Jim Wallace, and a letter from the Grand Lodge of Antient, Free and Accepted Masons of Scotland, which we considered briefly at our meeting on 27 February 2000. However, because several committee members were absent that day, it was agreed to defer substantive consideration until this meeting.

Since our brief discussion at that meeting, we have received a further letter from the grand lodge, which stresses that the freemasons are not a secret organisation and that they take exception to being misrepresented as such. The grand lodge makes clear in its latest letter that, although it is represented in the petition as religiously exclusive, it takes pride in having members from all religious faiths. It believes, therefore, that the petition is a misrepresentation.

We can do two things with the petition. We can accept the reply from Jim Wallace's private secretary, which says:

"The current situation in Scotland is that no applicant for a Judicial position is asked to declare whether he or she is a Freemason."

That contrasts with the situation in England and Wales, where

"the Lord Chancellor instructed that all new applicants for posts in the Judiciary must indicate whether they are Freemasons"

and where serving members have also been asked to declare, voluntarily, their links with freemasonry. The letter continues:

"There is, however, no register of membership and the information held by the Lord Chancellor's Department is not open to public inspection. Scottish Ministers considered whether any action would be appropriate for Scotland but we concluded that there was no need for any steps to be taken".

The letter further states:

"Aside from the representations which you have had from Mr Minogue, the Minister has not been made aware of any concerns by Court users about this matter"

and concludes that the minister sees

"no need at present for an initiative in this general area."

We can simply accept what the minister says—that he does not see a need for any action and that he is not aware of representations on the issue from any other court users—and agree to pass a copy of the response to the petitioner and take no further action.

Alternatively, if we are of the view that further action should be taken, we can agree to pass a copy of the petition and of the Scottish Executive's response to the relevant justice committee. I open the matter to discussion.

Helen Eadie: We should pass the petition to the relevant justice committee for further consideration. Putting the petition to one side and accepting the response from Jim Wallace's private secretary will not serve Scotland's best interests. We should pay regard to the fact that England has gone down one route—whether or not we ultimately agree to go down that route. We should ask for the views of the relevant justice committee and allow further debate, because the issue is controversial.

11:15

John Scott: I would be happy with that.

Dr Ewing: I agree with Helen Eadie.

The Convener: We will pass a copy of the petition and the Scottish Executive's response—as well as the correspondence with the grand lodge—to the relevant justice committee and ask it to consider the matter further and report back to us.

Is that agreed?

Members indicated agreement.

The Convener: Petition PE330, from Mr Rob Gibson on behalf of the Andrew de Moray Project, called on the Scottish Parliament to give

“greater publicity, interpretation and investment”

to sites and buildings of national importance, particularly those

“associated with Andrew de Moray, William Wallace and King Robert Bruce and the Wars of Independence.”

We agreed to request comments from the Scottish Executive and we have now received a response, which includes information on Historic Scotland and road signage. It is obvious that Historic Scotland does a great deal of interpretation, investment and publicity for the various sites that are in its care. Although it does less for those sites that it does not take direct care of, it enters into annual management agreements with, for example, Ormond Castle, which is referred to in the petition.

The Executive has also provided information on how applications for tourist signposting on the trunk road and motorway network are assessed in accordance with the criteria that are contained in a national policy.

It is suggested that Historic Scotland already provides extensive publicity, interpretation and investment to the sites and buildings of national importance that are in its care. On the points that were raised about signposting, it is suggested that the petitioners should approach the Scottish Executive, relevant local authorities and area tourist boards with proposals. It is suggested that the committee should agree to pass a copy of the response to the petitioners and to take no further action.

Helen Eadie: I agree with that.

The Convener: Is no one opposed to that?

Dorothy-Grace Elder: Would you consider adding something on the clarity of directional signs on motorways—not only for historic sites but for getting anywhere in Scotland? The signs are most confusing. The word “Perth” will disappear after it has appeared. The word “Glasgow” is almost excised from Ayrshire. Try finding Glasgow from Ayrshire—

Dr Ewing: Dingwall is difficult too.

Dorothy-Grace Elder: Yes. It is difficult for someone who does not use the road regularly.

The Convener: We could not do that as part of our consideration of the petition. However, we could certainly pass a copy of what Dorothy-Grace Elder has said to the Executive to draw the matter to its attention.

Dorothy-Grace Elder: Thank you.

The Convener: Is it agreed that we send a copy of the Executive's response to the petitioner and take no further action?

Members indicated agreement.

The Convener: Petition PE334 was from Mr Tony Southall, on behalf of the Scottish Campaign for Nuclear Disarmament. Perhaps I should declare my membership of Scottish CND.

Dr Ewing: Me too.

Dorothy-Grace Elder: Me too.

The Convener: A number of us are members. There is no bias here.

Dorothy-Grace Elder: I am also convener of the cross-party group on nuclear disarmament.

The Convener: The petition called on the Parliament

“to ask the Scottish Executive to initiate a review of Emergency Planning for nuclear submarine accidents in Scotland to ensure there is adequate protection for the local population and the environment.”

We wrote to the Executive, which has now sent us a fairly comprehensive reply. In relation to the safety issues surrounding nuclear submarines, the Executive is confident that the action that is within its powers—and within the powers of local authorities—is reviewed regularly and that there is no need to respond to the petition in the way that the petitioners requested.

It is suggested that we agree to pass a copy of the Executive's response to the petitioners and take no further action, as it appears that existing emergency planning procedures are adequate and regularly reviewed. Are any members of a different mind?

John Scott: Agreed.

The Convener: No—I have a point to make, if nobody else has, so I am opening the matter up for discussion.

Dr Ewing: Is the matter of safety and nuclear problems devolved?

The Convener: No. The operation and maintenance of nuclear submarines is a reserved matter, but the emergency plans for dealing with any nuclear incident in Scotland are devolved.

Dr Ewing: I have represented Dounreay for some time and I have often tried to get information about the exact duties of local authorities and police bodies in the event of a dangerous release of radioactivity. It is difficult to get any kind of information, yet I presume that local authorities must have detailed guidance on their duties in relation to the subject of the petition. They should all know what they must do in such an event.

The Convener: According to the Executive's response, local emergency services, health boards and local authorities are all given the opportunity to comment on and influence all safety proposals. They play a full and active part in the existing multi-agency planning and response.

The Executive's response refers to

"the incident on HMS Tireless"

and plays it down, in complete contrast to Scottish CND's original petition. In my view, we should pass a copy of the Scottish Executive's response to Scottish CND, take no further action at the moment and wait to see whether that organisation responds to what the Executive has said to us. There is a conflict between those two versions of the same incident.

Dr Ewing: In the Dounreay case, all the people who were affected by radioactivity were going to be put into a school. Thereafter, that school would be out of bounds for all time. The whole procedure seems ludicrously inadequate.

The Convener: I am informed that the incident involving HMS Tireless is a reserved matter and not for this committee to address. However, the contrast between the two stories from Scottish CND and the Ministry of Defence is important, as there are implications for the health and safety plans if Scottish CND is correct.

John Scott: Has Scottish CND a track record of being consistently right?

The Convener: We can ask Scottish CND for its response to the Scottish Executive's letter. If it does not respond, the matter is dead.

Dorothy-Grace Elder: I am rather confused. We have just dealt with a petition that claims that the freemasons are a secret society, which they deny. However, any ministry of defence of any nation—and this is not adverse criticism—is necessarily a secret society that keeps secret what it is supposed to be doing. If the Ministry of Defence told me that it was a sunny day, I would know to get my raincoat—that is the result of 25 years of dealing with the Ministry of Defence as a journalist. Naturally, it keeps things secret.

In Scotland, we are in a cleft stick. We are responsible for the health and safety of 5.1 million people, which is an entirely different responsibility from that of the Ministry of Defence in London, and we have all Britain's nuclear weapons. Anything that a ministry of defence says about safety needs to be held up with tongs. The Ministry of Defence and everyone in some sort of authority who works locally is pleased that everything is all right. Well, I remember the day that Chernobyl went up. A Scottish Office spokesman was on the radio telling us that the milk was quite safe, even when the clouds were passing over Scotland. We now know

that, at the same time, Government scientists were out buying cheese for their kids because they knew that the milk might be affected. Our first duty must be to protect the public.

I suggest that we refer the petition to the Transport and the Environment Committee and the Health and Community Care Committee. I cannot accept a blanket statement about safety, especially as allegations have been made that the nuclear submarines are cracking up. There are also regular exercises at Helensburgh and plans to evacuate the whole area. One major incident with a submarine could take out Glasgow, Helensburgh and half the west coast.

The Convener: I have been advised that we must focus exclusively on the emergency planning issues. However, there are other matters that arise out of that.

Helen Eadie: I will respond to Winnie Ewing's question about information. Every local authority that is involved in emergency planning measures is obliged to publish a document. The document for my area was called ROSPUBSAFE, which means "Rosyth public safety". That document was available in local libraries and could give chapter and verse of all the preparations that had been made for any disaster that could strike any area in our locality. I know that that applies to other areas.

I take the clerks' point about the matter being reserved. The committee might like to write to the steering committee for nuclear-free local authorities in Scotland. That committee has a local dimension. We might want to copy the Executive's response and the petition to that committee because it may have a view on them. That might address some of the concerns that the convener wants to address in a way that comes within our remit. We would be asking for the local authorities to address the issues.

Rhoda Grant: That is exactly the point that I was going to make. We should pass the matter to the relevant local authorities to see what their plans are and how they have addressed the risk. They must have some plans.

The Convener: We have various suggestions. I am not ruling out what Dorothy-Grace Elder suggested, but at this stage, we need to know the CND's response to the Executive reply and we need to ask the steering committee for nuclear-free local authorities in Scotland to comment on the petition and the response.

Dorothy-Grace Elder: We should suggest, at some stage, that an independent person be brought in, perhaps someone from overseas—Europe, for example—rather than someone from Scotland. We need the view of an independent expert.

We are so blocked in the Parliament. We cannot ask about reserved issues. If I want to ask about nuclear problems or the American fleet shelling Scotland, I have to ask about puffins, because they are devolved. If American warships were shelling Scotland, I could not ask what type of shell they were using, or whether they were using depleted uranium. I could only stand up in Parliament and ask, "How did the puffins like it?" I am sure they just loved it.

The way that we are treated on this issue is childish. I ask that we hear from an international expert, not just from the local authorities.

The Convener: As a first stage, we will seek further information. We will write to CND, the steering committee for nuclear-free local authorities in Scotland, and the local authorities that are directly involved and referred to in the petition to ask for their views. Are we agreed?

Members indicated agreement.

Dr Winnie Ewing: Are we leaving out the Transport and the Environment Committee for the moment?

The Convener: We will leave it out until we have the next responses. At that time, we can further consider sending the petition to the Transport and the Environment Committee.

The next petition is PE337 from the Retained Firefighters Union. It is a shame that George Lyon is not here, as he took a particular interest in the petition. The petition asked that the Minister for Justice take into account the concerns of the union's members in Oban before he reaches a decision on Strathclyde fire brigade's proposals to restructure the fire service in Oban.

We have passed the petition to the minister and received assurances that he will take it into account in his consideration of the proposals. We also wrote to Strathclyde fire brigade to ask for its comments on the issues. The brigade has given us a fairly comprehensive reply, in which it indicates all the steps that it has taken to try to meet RFU's concerns. We have also received a letter from Argyll and Bute Council, which states that its Oban, Lorn and the isles area committee supports unanimously the proposed upgrading by Strathclyde fire brigade. The Scottish Executive has replied, confirming that ministers will take the petition into account as part of their consideration and that they have met the RFU.

The suggestion is that it is not appropriate for us to intervene in Strathclyde fire brigade's re-evaluation of its service. The re-evaluation is a statutory process and the petitioners' views will be taken into account as part of that process. It is therefore suggested that we agree to pass a copy of the letters from the Scottish Executive,

Strathclyde fire brigade and Argyll and Bute Council to the petitioners, inform them that it is not appropriate for us to intervene and take no further action.

I know that there will be local feelings on the matter.

Rhoda Grant: I can pursue the issue as one of the local members. I understand why the committee cannot get involved. Local members should keep pushing.

The Convener: Do we agree with the recommendation to pass all the correspondence back to the petitioner? There is nothing else that the committee can do at this stage.

John Scott: It is with reluctance that I agree the recommendation, but that must be our position.

Members indicated agreement.

11:30

The Convener: The final page of the paper on current petitions gives us an update on petitions PE102, PE205, PE299 and PE331 and simply keeps us informed on the progress that is being made on those petitions by the Justice 1 Committee in particular. Those petitions remain under consideration.

I have quite a lot to say about two other current petitions, on which information came in too late to be circulated to members.

On PE316, members will recall that we discussed the Scottish berry project and that, at our previous meeting, we agreed to pass a copy of an Executive response to the petitioners and to take no further action on the petition. That decision was reached on the basis that the Scottish Executive seems to be aware of the project's objectives and has provided advice on how the project's proposals might be developed. We also agreed to recommend that the petitioners should continue their discussions with the Executive.

The petitioners have written back to indicate that the Executive officials have not been as willing to hold discussions with them as the response to the committee suggested. The petitioners asked the committee to put pressure on the Executive to live up to its promises of dialogue on their proposals. It is suggested that we copy the petitioners' letter to the Executive and make the point that the committee would like it to live up to the impression that it gave in its response that it would engage in meaningful dialogue with the petitioners on a way forward. Are we agreed?

Members indicated agreement.

The Convener: PE338 is on the subject of housing stock transfer. At our meeting on 27

February, we agreed to send the petition to the Executive and to request that it respond directly to the petitioner, Mr James Bennett, on the issues raised in the petition. However, Mr Bennett has written to the committee to express his concern that the specific issues raised in the petition were not addressed by the former Social Inclusion, Housing and Voluntary Sector Committee during its general consideration of the alternatives to stock transfer, nor were they dealt with during the SNP debate on the matter. He asked that—for the record—the committee should be informed of those points and of his view that his petition

“does not provide an alternative model for stock transfer but an alternative to transfer”.

There is no reason to alter the committee's decision on the action to be taken on this petition. However, I propose to send a copy of Mr Bennett's letter to the Executive in the interests of clarification. Is that agreed?

Members *indicated agreement.*

Convener's Report

The Convener: The final item on the agenda is the convener's report. We are always keen to examine ways of improving and developing the committee's procedures for dealing with petitions. We all know that the long-established and comprehensive petitions system of the Bundestag in Germany is widely held as an example of best practice in Europe, if not the world.

We have made informal contact with the Bundestag and established that its Petitions Committee would welcome a visit from this committee later in the year. The dates that have been suggested—to coincide with meetings of the Bundestag Petitions Committee—are 24 to 26 September or 8 to 10 October. The visit would include an examination of the way in which the Bundestag operates and, possibly, visits to two Länder petitions committees in Berlin and Brandenburg. If members are content with the principles of proceeding and obtaining permission from the relevant parliamentary authorities, I will put the proposed visit on the agenda.

Dr Ewing: The SNP conference is on 24 to 26 September.

The Convener: In that case, you would prefer us to go on 8 to 10 October.

Dorothy-Grace Elder: You should go to Germany, Winnie.

Dr Ewing: As I am the SNP's president, I must go to the conference.

The Convener: Perhaps John Swinney would be grateful if you had to go to Germany as a member of the Public Petitions Committee.

Dr Ewing: Is not 8 to 10 October during the recess?

The Convener: Yes.

Dr Ewing: Those dates would be more suitable.

The Convener: The clerk informs me that he will canvass members for their preferred dates. Is it agreed that we should go ahead with that proposal?

Members *indicated agreement.*

The Convener: There is no other competent business, unless members wish to raise anything.

Dr Ewing: If a disgruntled petitioner writes to me directly, am I correct in saying that I should not reply to him and that I should pass such correspondence to the clerk? That happened to me this week and I would have thought it inappropriate for an individual member of the committee to enter into correspondence with a petitioner after his petition has been dealt with.

The Convener: It is quite possible for members of the committee to pass on petitions from constituents or from anyone else.

Dr Ewing: Yes, but after we have made a decision about a petition at the committee—

The Convener: Are you talking about someone who is complaining about our decision?

Dr Ewing: Yes.

The Convener: I see. You should pass such complaints to the clerk, as they will be put before the committee.

Dorothy-Grace Elder: Convener, you kindly advised me that it would be best for petitioners to set their petition in a national context, although they might be referring to a local issue. However, I wondered what would happen if people wrote to members of the committee—as they have done for years before we became members of the committee—asking us to sign their petition on this or that, which might then come before the committee. Is it in order for members to sign petitions?

The Convener: Members of the committee can sign petitions, as long as they declare an interest.

Dorothy-Grace Elder: Thank you.

The Convener: I thank members for their attendance.

Meeting closed at 11:35.

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