

PUBLIC PETITIONS COMMITTEE

Tuesday 24 April 2001
(*Morning*)

Session 1

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PUBLIC PETITIONS COMMITTEE

6th 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)

*John Farquhar Munro (Ross, Skye and Inverness West) (LD)

*John Scott (Ayr) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Lex Gaston

Councillor Charles Kennedy

Mrs Christine McPherson

Paul Martin (Glasgow Springburn) (Lab)

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)

David Mundell (South of Scotland) (Con)

Mr Duncan Shields

Mr Hendry Williams (Troqueer Homeowners Committee)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Jane Sutherland

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 24 April 2001

(Morning)

[THE CONVENER *opened the meeting at 10:03*]

The Convener (Mr John McAllion): I welcome everyone to the sixth meeting this year of the Public Petitions Committee. I hope that everybody had a good Easter break, in Scotland. We have a busy agenda this morning, so I shall not make any further opening remarks.

I have not received any apologies from members of the committee. I note that Paul Martin, Cathie Craigie, David Mundell and Alasdair Morgan are with us this morning; they each have an interest in petitions that are before us.

Interests

The Convener: I welcome our new member, John Farquhar Munro. I am sure that you will enjoy your time on the committee, John.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Thank you.

The Convener: The Public Petitions Committee is not like other committees of the Parliament and there are certainly no whips operating in here, so you should find it congenial.

We must start by asking our new member to make a declaration of interests.

John Farquhar Munro: I do not think that I have anything of particular significance to declare, apart from the fact that I am a Highland crofter—crofting sometimes gets a little support from the Scottish Executive. The other thing that might be of interest at some time in the committee's proceedings is that I am a fellow of the Institute of Logistics and Transport. Any other interests are quite insignificant.

The Convener: I take this opportunity to thank George Lyon, who was John Farquhar Munro's predecessor on the committee, for his contribution. He was on the committee only briefly, but made an impact in the short time that he was a member. I am sure that John Farquhar Munro will make an equally important impact in the months and years ahead.

New Petitions

The Convener: First, we have a batch of petitions, PE352 and PE355, which are both from Mr Duncan Shields. Mr Shields is present this morning and I invite him to make a presentation to the committee.

It is normal practice to allow petitioners three minutes to make their presentation. However, because you are speaking to two petitions, it has been agreed that you will be allowed five minutes. After four and a half minutes, I shall indicate that you have 30 seconds to go; you should then begin to wind up.

Mr Duncan Shields: The Shipman inquiry is only the tip of the iceberg in showing the almost total lack of regulation of doctors' conduct. Doctors make mistakes and errors of judgment and have been shown to act subversively if there is financial gain to be made. Lawyers exploit that lack of accountability by using doctors' reports regularly in the Scottish courts to bias cases heavily in favour of their clients. That can massively undermine the basic human rights of many individuals who bear the brunt of the injustice that flows from a system that is seriously flawed and which causes widespread psychological trauma for children and parents who are separated from one another as a result of that lack of accountability. Because of the pressures that result from such actions, some people may not even survive the loss of the basic human right of contact with their family.

Could anyone possibly believe that, in his capacity as a doctor, Harold Shipman was capable of passing accurate judgment on parenting skills or a child's welfare? However, he was only one of many doctors who use their surgeries as mini-courtrooms, producing character assessments outwith a court of law and remaining virtually untouchable, while the GMC has nothing in place to ensure impartiality, as required by the European Court of Human Rights. There is an inherent bias in such cases when a lawyer requests a doctor's report for the client. Such a request is unlikely to produce a report opposing that lawyer's client, who is providing the fee for that report via the legal aid fund.

There is now a total lack of trust by the general public in a system that gives free rein to professionals—as if that title is all that is required to assure good moral and ethical judgment. The Shipman inquiry showed that the system is seriously flawed in coming to that conclusion. For an individual to face such injustice while emotionally weakened by separation and other serious contributing factors, such as illness, and while there is no accountability, leaves the legal process open to widespread misuse. The system allows unwarranted restrictions to be placed on

family contact and uses potentially flawed reports to the detriment of a child's emotional development. Family Mediation Scotland is fully aware of the damage that is regularly done to children's development as a result of those unaccountable influences.

The process, which is blighted by a lack of grievance procedures and disciplinary action, may later be shown to be flawed and to have undermined decisions regarding a child's welfare. In many cases, those decisions are taken by professionals who may have little or no knowledge of a family background on which to form their opinions and who influence such cases heavily from the outset. That also leads to the degrading spectacle of judges and sheriffs treating individuals inhumanely in court, by withdrawing or severely limiting contact with a child. In many cases, that judgment is based on statements that have been produced by a doctor who is unaccountable. Those statements may totally contradict the views that have been expressed by the children involved, which shows lack of sensitivity to a highly emotive issue. The introduction of children's commissioners may assist in the process, by ensuring that the rights of the children are being taken into account.

A doctor, funded by legal aid, can slander an individual in court, but no legal aid is available for the individual to challenge any such report. Nor is there any grievance procedure to deal with that through the General Medical Council, as was shown in the Shipman inquiry. Through that lack of accountability, such defamation can destroy a person's life.

Harold Shipman is likely to have been responsible for more than just taking human life. He was able to influence major decisions on child welfare for many years, probably to the detriment of many children who faced loss of contact with their parent as a result of his subversive influence. Something that the inquiry did not fully document, but which is likely to have happened during the many years in which that doctor practised, is how social services and the courts can be heavily influenced by a doctor's report in child welfare hearings. It is essential for the Scottish Parliament to examine all cases in which a child has been separated from a parent or a sibling because of a doctor's report. In the light of the Shipman inquiry, which clearly showed how massive injustice can prevail, all such cases should be reconsidered. The reports are not accountable. No child should be separated from a parent as a result of decisions that were made under the influence of doctors' controversial reports to courts.

An inquiry is being conducted into legal aid. Part of that inquiry should be an examination of the massive funding that the Scottish Legal Aid Board

gives to the top 20 lawyers—I have the figures with me for 1997 and 1998. The amount of that funding that is generated by the payments that are made to doctors for reports should be determined. Such funding allows the long-term harassment of an individual who is at the receiving end of injustice, which can stretch over many years. That harassment is made possible almost entirely because of the influential and controversial doctors' reports.

There should also be an examination of what, if any, procedures the GMC has in place to deal with doctors' role in this area. That body does not appear to have proper grievance procedures to deal with the Shipman case, never mind the use of such doctors' reports in courts.

My second petition, PE355, calls on the Scottish Parliament to examine the regulations and procedures regarding local councillors who heavily influence council departments and allocate funding to those departments, then use reports from those departments in court cases involving clients of legal firms in which they are partners. I know of such a case. Such reports can heavily influence decisions that might undermine an individual's human rights and jeopardise the welfare of a child as a result of that conflict of interest. Family Mediation Scotland views such a situation as potentially detrimental to a child's welfare. Such reports include those that are produced by social services, education departments and housing departments.

I apologise for rushing through my statement, but I was conscious of the time.

The Convener: That was an excellent presentation. We will deal with the petitions separately.

Petition PE352 asks the Parliament to examine, in the light of the Shipman inquiry, the use or misuse of doctors' reports by lawyers in court actions. We consulted the Scottish Executive justice department about the petition. It argued that any doctor's report that is submitted in court is open to challenge and that, unless agreement is reached, the doctor can be cross-examined on the report and alternative reports can be brought forward. Why is that safeguard not sufficient?

Mr Shields: I have been through the GMC's grievance procedure and I have found that it seldom takes action to provide a judicial review of any doctor's report.

The legal argument is that a doctor's report is one of the major factors in determining issues relating to a child's welfare. Even when I produced evidence in court to show that the court's decision, based on the doctor's report, went against the interests of my children, my words fell on deaf ears. I can speak only from personal experience,

but the doctor's report was taken as evidence at all times during the complaints procedure that I followed.

I went through that process before the Harold Shipman inquiry. I am concerned by the fact that, in the many cases that the GMC has dealt with—including the deaths of children in the Bristol royal infirmary—it has seemed impossible to get the GMC to challenge any doctor's report.

The Convener: Is it possible to challenge the report during the court procedure?

Mr Shields: That was done but it made no difference to the decisions that were made, despite the fact that contrary evidence was put forward.

The Convener: Could you have brought a report by your doctor before the court?

Mr Shields: The difficulty is that, in a custody situation, both partners share the same practitioner. The doctor decides to make a report in favour of one or the other partner. That situation, too, can compromise a child's welfare.

Dorothy-Grace Elder (Glasgow) (SNP): Were you referring to hospital doctors as well as general practitioners? Obviously, a hospital doctor may have seen the child on only one occasion.

10:15

Mr Shields: I am talking mainly about the local GP who has some knowledge of the family background, although I do not know whether treating a family's colds means that the doctor is in a position to make assessments of a family's character. Harold Shipman, for example, had influence over similar situations in relation to many families. The inquiry, however, examined only the people who were killed; it did not consider the reports that he might have made. The GMC should have procedures in place to deal with that problem.

Dorothy-Grace Elder: Given that the GP will probably not have seen the child very often—because the child has not been around for long—what is the alternative to having GPs produce reports?

Mr Shields: There should be procedures in place to deal with situations when it is found out that a doctor's report has adversely affected a decision and had a negative impact on a child's welfare. The GMC should review its procedures, as the report can massively affect the outcome of the court case. I have found my experience of such a situation to be one of the most difficult and trying times of my life. I find it hard to believe that one person's report could affect my life so dramatically.

John Scott (Ayr) (Con): You suggested that the legal system is open to abuse. Have you specific instances other than your personal circumstances?

Mr Shields: Family Mediation Scotland is quite clear about the fact that substantial damage to children's welfare is done by this unaccountable system. As is proved by the present rules and regulations, the doctor is unaccountable. Many children are suffering psychologically because of such decisions and Family Mediation Scotland is picking up the pieces. I have spoken to the organisation at length and I understand that it suggested many years ago that there should be a long-term review of such decisions to determine the effects on the later life of the child.

John Scott: Who would be in a position to conduct such a review, if not the general practitioner? Ultimately, whose advice does one take in such matters?

Mr Shields: I am putting to the committee only the fact that a problem exists, as is clearly shown by the Shipman inquiry. I hoped that the committee would be able to make suggestions about possible alternatives. I would need time to think about alternatives.

The Convener: We will move on to deal with petition PE355. I understand that you allege that there is a potential for conflict of interest when councillors are also practising lawyers. You believe that such councillors might be able to influence council departments in favour of their clients. You want the Scottish Parliament to examine the regulations that control that. Is that the basic situation?

Mr Shields: Yes.

Rhoda Grant (Highlands and Islands) (Lab): If a councillor had some other input to a case, and was able to use that influence to change things, would not he or she have to declare that interest and step back from any decision making?

Mr Shields: They may do—but if it took place in the City of London, I am sure that people would see that as insider dealing. If someone is in a powerful position to influence departments, and then uses those departments' reports to gain influence on court decisions, some aspects of that situation could be considered as conflicts of interest. An example of that would be if someone runs a legal firm and also has a heavy influence on decisions on council reports in another area—especially an area that is connected with a child's welfare. I have spoken to Family Mediation Scotland about that and it is concerned about anyone having such undue influence. It has encountered injustice as a result of such conflict of interest.

John Scott: Are there specific cases where that has happened?

Mr Shields: Family Mediation Scotland did not give me details of any specific case, but it is concerned about anything to do with people having undue influence on decision making on a child's welfare—especially if the child is very young.

The Convener: Thank you. We will now consider how to deal with your petition PE352. You are welcome to stay to listen to the discussion.

Members will note that it was originally suggested that we agree to copy the Scottish Executive justice department's comments to the petitioner and to take no further action. However, the case that has been made by the Executive—that there are safeguards in court proceedings in terms of doctors' being questioned and alternative medical evidence being presented—does not seem to address the petitioner's concerns. I suggest that, before we take the matter any further, we send the Executive's response to Family Mediation Scotland and ask for its comments.

Helen Eadie (Dunfermline East) (Lab): Absolutely, yes.

Dorothy-Grace Elder: Could we pass the Executive's response to the Justice 1 Committee or the Justice 2 Committee at the same time? The response is very bland and it does not tackle the point about the GMC.

The Convener: At this stage, we would be passing on the response purely for information. We will pursue the issue with Family Mediation Scotland. After we hear its response, we can decide what to do.

Dorothy-Grace Elder: Okay.

Helen Eadie: I agree with the convener. I suggest that we also send the response to Children in Scotland, which has a considerable reputation in policy matters that affect children; I am sure that it would want to give its views. The convener was spot on in saying that the Executive's response does not address the petitioner's concerns.

The Convener: Do members agree that we should send information to all the places that have been suggested and wait for the responses before considering the petition further?

Members indicated agreement.

The Convener: Petition PE355 calls on the Scottish Parliament to examine the regulations regarding local councillors' interests. The recommendation is that we should seek the views of the Scottish Executive and possibly the

Convention of Scottish Local Authorities on the issues that have been raised and that we should consider the petition further when we receive their responses. It is also suggested that Family Mediation Scotland should receive a copy of this petition, as it concerns the same area as the previous one.

Members indicated agreement.

The Convener: The next petition is PE354, from Councillor Charles Kennedy, on the removal of acute medical and surgical services at Stobhill general hospital. Councillor Kennedy is here and I think that he has with him Christine McPherson and Lex Gaston, who will answer any questions after the presentation. As usual, the petitioner will have three minutes to make that presentation. Because of the interest in the issue from MSPs who are not on this committee, I will also give those MSPs the opportunity to speak before I open the meeting up to questions from committee members.

Councillor Charles Kennedy: Thank you for allowing us to speak to the petition, which has more than 40,000 signatures and comes after five full public meetings in the East Dunbartonshire and north Glasgow area. The average attendance at those meetings was around 500, which gives an indication of the great concern that is being expressed over the consultation that the Greater Glasgow Health Board conducted on the future of acute services north of the Clyde.

That concern is not confined to the public: it comes also from the medical staff. At one time, the medical staff were in favour of reducing the number of acute hospitals from five to three in the greater Glasgow area; but they now agree that that will not work because of the growing population.

We are especially concerned, as members know, about the removal of services from Stobhill general hospital. A current consultation paper suggests the removal of even more services from that hospital. Ear, nose and throat, gynaecology and orthopaedic services are areas that the paper suggests should be transferred from Stobhill general hospital to Glasgow royal infirmary.

The petitioners, and those who attended the public meetings, felt that, although there has been consultation, those who have consulted have not listened to the public. There is a general feeling that something has to be done. We understand that a full business case is to be presented to the Minister for Health and Community Care by this September. That fills us with foreboding. We feel that there is an urgent need to involve the Parliament's Health and Community Care Committee, in the hope that it might express the view that a full and independent inquiry needs to

be undertaken into in-patient facilities in the Glasgow area. We also feel that, in the meantime, no further consideration should be given to the removal of services from Stobhill until after that inquiry has taken place.

It is fair to say that the people who signed this petition are looking to the Scottish Parliament to protect their interests and defend their rights. There is a feeling—this has been borne out by what has happened—that the current members of the Greater Glasgow Health Board are remote and unresponsive. Gradually, we are seeing the inevitability of the closure of Stobhill as a general hospital. We do not believe that that would be in the interests of the people of the north Glasgow area. We are concerned about the concentration of so many services on Glasgow royal infirmary which, to be frank, is not accessible to a great many people in the north Glasgow area—especially the areas that I represent in Kirkintilloch, Bishopbriggs, my own area of Milton of Campsie, and further afield in Kilsyth, Cumbernauld and, of course, Springburn. We know of instances of some very near fatalities, because of traffic problems and the distance involved.

We are asking the Public Petitions Committee to reflect on the fact that we have gathered something like 45,000 signatures and that we have held five public meetings. At one of those meetings we had only 250 people, but that was because there was heavy snow. We were amazed that anybody came. However, the average attendance at the meetings was around 500. That in itself reflects very creditably on the people in the north Glasgow area. We are all concerned about turnouts at public meetings and elections, but we were getting more than 500 people out to our meetings. I therefore ask the Public Petitions Committee to consider our request that the Health and Community Care Committee consider a full-ranging independent inquiry into in-patient facilities.

The Convener: Thank you. Paul Martin is here to speak to the petition.

Paul Martin (Glasgow Springburn) (Lab): There is a need for an acute services review in Glasgow, but we were promised from the outset of that review that local people's views would be taken on board. In respect of this petition, the point has been made that people's views have not been listened to.

There has been no comprehensive package to prove that what Greater Glasgow Health Board has proposed will result in improvements in health care. We have not been allowed to examine issues such as how long hip operations will take and whether the waiting time for them will reduce if services are moved from Stobhill to, for example,

Glasgow royal infirmary. There has been no clear indication of where the acute services review will result in clear improvements in health care. The health board has failed in that respect.

As Councillor Kennedy pointed out, it is proposed to relocate a number of services to Glasgow royal infirmary. The health board has not dealt with simple issues such as car parking. There is a chronic shortage of car parking facilities in the area of Glasgow royal infirmary. It is evident to anyone who passes through Glasgow or is a Glaswegian, as I am, that there are no car parking facilities at Glasgow royal infirmary. I have not seen any proposals or drawings that set out how car parking will be improved.

I appreciate that we are limited by time, but we could spend an entire morning discussing the issues. We asked the health board to listen to local views, but it listens only when it wants to listen and when it hears what it wants to hear. That point has been made clearly today.

10:30

The Convener: Thank you. Cathie Craigie wanted to be here for this item, but she had to leave to attend the Subordinate Legislation Committee, where her member's bill is on the agenda. Otherwise she would have been here to speak.

You mentioned that a full business case is being prepared for September. In correspondence to the petitioners, the Scottish Executive states that the health board has agreed

"not to press ahead with the preparation of Outline Business Cases"

for its

"preferred options north and south of the river."

Has the health board gone back on that commitment?

Mrs Christine McPherson: No, I do not think that the health board has gone back on that commitment. It has said that it will set up a reference group to consider the area north of the river. However, it has been saying that for something like three months and no work has been done. We are still waiting to hear.

As far as we know, the health board is pressing ahead. It has to come up with something by September, because the Minister for Health and Community Care wants to know what the plans are.

The Convener: A reference group has been established for the preferred options south of the river. That involves MSPs, councillors and the health board. Are you saying that that has not happened for the north of Glasgow yet?

Mrs McPherson: No, it has not.

Councillor Kennedy: My understanding from correspondence with the minister is that she still expects a submission in September. For that perfectly good reason, she feels that she is unable to meet with us in advance of that.

Dorothy-Grace Elder: The minister should meet you in advance. I have been to quite a number of the public meetings and it is a long time since I have seen such large public meetings in Glasgow on any subject. We must bear in mind that Springburn is one of Britain's six most deprived and unhealthy constituencies. That is stated in the Bristol review and many others. To remove an excellent general hospital from that area does not make sense.

We are faced with the death by 1,000 cuts scenario, like that at Stracathro. We received 25,000 signatures for that petition. There are 43,000 to this petition.

I have seen some of the provisional plans for the ambulatory care and diagnostic unit—ACAD—that the health board proposes to put on site.

The Convener: At this stage we are questioning the witnesses. We can discuss the petition once we have done that.

Dorothy-Grace Elder: Have you seen the ACAD unit plans and what do you think of them in relation to the disappearance of a general hospital?

Councillor Kennedy: I will bring in Lex Gaston, who is former chair of the then Stobhill NHS Trust.

Mr Lex Gaston: We have seen plans for the ACAD unit. Unfortunately, they have been scaled down a bit from the original plans. It has been proved on many occasions that a stand-alone ACAD unit would not be satisfactory for the medical staff. It would be of use only if it were attached to the services that already exist at Stobhill hospital.

Councillor Kennedy: We are certainly getting great support from the medical staff on that issue. That has been one of the encouraging features from our point of view.

Dorothy-Grace Elder: Are you aware that there is only one ACAD unit in Britain and that it is not a stand-alone unit? It is next to a general hospital.

Councillor Kennedy: Yes.

Mr Gaston: The research that we have done in Britain and America proves that an ACAD unit is successful and useful to the medical staff only if it is attached to a general hospital.

Helen Eadie: We are no strangers to acute services reviews in Fife. We had one there. I echo

the point about public meetings; 1,000 people turned up at one in Fife.

I understand the reasons behind wanting to review acute services, such as the shortage of specialists. My interest lies in the consultation process. I have heard that you held public meetings. Were those meetings organised by the health board or the public? What format did they take?

Councillor Kennedy: Initially, they were organised by East Dunbartonshire Council. They took on a life of their own after that. The early meetings were attended by invited representatives of the health board. We are not opposed to change; we are opposed to the suggested way forward, which we think is not viable. Initially, East Dunbartonshire Council supported the meetings, but they took on a life of their own as a result of local feeling on the matter. Representatives of the health board attended two meetings, and they are welcome to come to any others.

Helen Eadie: So, the health board has not taken the initiative to manage the process of change, inform people about the issues and discuss their views on the matter?

Councillor Kennedy: Representations have been made to the council, and the health board was encouraged to take the lead and present its proposals at the early public meetings. It is disappointing that those proposals seem to be totally inflexible and that the health board was not prepared even to acknowledge that people had concerns. According to the most recent consultation paper, as Dorothy-Grace Elder said, even more services are facing death by 1,000 cuts. We are rapidly getting to the stage at which there will be nothing left to keep Stobhill general hospital going.

Mr Gaston: We held meetings to which representatives of the health board were not invited, to ensure that the issues could be discussed properly without the discussion becoming a slanging match between the public and the health board. Following those public meetings, we invited health board representatives to attend a meeting in Springburn at which all the points that had been raised were put to them. However, we received no satisfactory response.

Helen Eadie: Paul Martin talked about car parking issues, which have also arisen in Fife. Have there been any discussions about the possibility of establishing a green transport plan? It is crucial to establish how the public can access hospitals if they are not provided with car parking. What transport plans are to be implemented?

Councillor Kennedy: I understand that there has been no discussion of those issues. The topography of the Royal infirmary and the layout of

the buildings render it virtually impossible to construct more car-parking facilities. It is a common problem that people have to park their cars sometimes a mile or a mile and a half away from the Royal and walk to it. People often say to me, "I was in Stobhill today, and the car park was full. How will all those cars park at the Royal?" The answer is that, unless an underground car park is constructed—which will not happen because of the cost—they will have nowhere to park. That is another serious concern, as Paul Martin rightly pointed out.

John Scott: You are saying that the consultation process is not working.

Councillor Kennedy: I am saying that it is flawed.

John Scott: How would you improve it?

Councillor Kennedy: Consultation must be a two-way process. If people have a different point of view when consultation is undertaken, the fact must be recognised that that point of view will at least be listened to. If necessary, a reasoned argument against that alternative point of view must be provided, but that has not happened. I do not want to use emotive words, but there has been a tendency for health board representatives to talk down to people. My feeling is that a decision had already been made and that the consultation process was a sham. A decision had been reached before the consultation began, which is not healthy in a democracy.

We would like the Health and Community Care Committee to commission a full, wide-ranging review of all aspects of acute services north of the river, to be carried out by someone who is manifestly independent of both sides of the argument. That is the only way forward. The public are very disillusioned by the fact that the health board does not appear to be listening.

Dorothy-Grace Elder: For the record, has the health board ever put an alternative plan to you?

Councillor Kennedy: No. I do not think that there is an alternative plan—that is the problem.

Dorothy-Grace Elder: You object to the fact that the consultation has been confined throughout to a presentation of what the health board thought was right.

Councillor Kennedy: Yes. It was described as similar to Moses coming down from Mount Sinai.

The Convener: I want to be absolutely clear on this point, because the correspondence that we have been shown tells a different story. Has the health board suspended the outline business case for this proposal?

Councillor Kennedy: Not that we are aware of.

Mr Gaston: The press statement accompanying recent press reports about the chief executive resigning in six months said that the health board would complete the report by December.

The Convener: By report, you mean the outline business case for the proposal.

Mr Gaston: Yes. However, that is the complete opposite of what is actually happening.

The Convener: And is there no reference group, as there is south of the river?

Mr Gaston: No.

Mrs McPherson: The health board has said that it will have to consider a reference group. However, according to Mr Spry, the problem is that because the north of Glasgow has so many community councils and covers such a wide area, such a group would be a nightmare to set up. Although he told the *Kirkintilloch, Bishopbriggs & Springburn Herald* three months ago that he would look at the matter, nothing has happened yet.

The Convener: The health board has said that, south of the river, it has suspended the original proposal and will instead present three different option appraisals for three different schemes to the reference group. Is that happening north of the river?

Councillor Kennedy: Definitely not.

The Convener: The health board has claimed to us that it is.

Councillor Kennedy: That is certainly news to us. We genuinely have heard nothing to that effect. As I said earlier, I understand that it is full steam ahead for a September presentation to Susan Deacon.

Paul Martin: As the MSP representing the constituency that contains Stobhill hospital, I have certainly not been advised of any suspension of the outline business plan.

Councillor Kennedy: That sort of misinformation partly explains our frustration.

Paul Martin: One of the difficulties with the process is that such important information has not been made available.

The Convener: If there are no further questions, I will thank the witnesses for their very good presentation. I am sure that the committee is much better informed now than it was at the beginning of the meeting.

A letter to one of the petitioners, Mr A Shearer of 85 Ryeside Road in Glasgow, has been drawn to my attention. The letter states:

"At a meeting of the full Board on 19 December to consider the outcome of the consultation, it was decided not to press ahead with the preparation of Outline Business

Cases for the Health Board's preferred options north and south of the river."

Although that correspondence claims that the outline business case north of the river has been suspended, that information has not been transmitted either to the petitioners or to local elected members, which seems strange.

As for the suggested action on petition PE354, the first point is that decisions on such issues are a matter for the local health board, rather than the Parliament. However, I am certainly concerned by the evidence that we have heard this morning. As a result, I suggest that we should agree to seek clarification from Greater Glasgow Health Board about its proposals for services north of the Clyde, and in particular about whether it intends to abandon its proposals and to introduce different options for those services, and create a reference group through which there can be proper consultation on those options. We must make it very clear to the health board that, on the strength of a petition containing 45,000 signatures and the evidence that we have heard this morning, the committee feels that the health board should urgently reassure petitioners that it is not going ahead with the planned proposals.

John Scott: The health board should at least justify its position. Neither we nor the petitioners are in a position to judge whether its proposals are best. However, if other available options are subsequently discounted because they are shown to be unworkable, it would set everyone's minds at rest. The problem is that the petitioners have been presented with a fait accompli.

The Convener: We should approach the health board for clarification about what is being proposed and whether it can outline the different options that are being presented. However, that is a matter for the reference group, which will include local people.

10:45

Helen Eadie: I support your views. It is vital that we get clarification of Greater Glasgow Health Board's position. I take your point that it is not for the Scottish Parliament to intervene, but there are 45,000 signatures on the petition. In some countries, a petition needs only 50,000 signatures before it automatically triggers a process that involves Parliament—this petition is very close to that figure. I think that that gives us a mandate to tell Greater Glasgow Health Board that we want clarification of the way forward for the people of Glasgow. It also gives us a mandate to try to get the further information that you suggested, as well as the option appraisals. It is vital that we get that information. The clear message has to go to every health board in Scotland that they ignore the views of the public at their peril and that the Scottish

Parliament will not put up with that.

The Convener: If members feel strongly enough, it is open to the committee to lodge a motion for debate in Parliament. That is within our power. In the first instance, however, we should seek clarification from the health board. Debating an issue in Parliament is the committee's ultimate weapon, but we do not use it immediately.

Rhoda Grant: In the short time that I have been on the committee, a lot of the petitions that we have received have been about inadequate consultation. The underlying problem that we should be tackling is how organisations consult and what notice they take of the views expressed during that consultation. I understand from the petitioners that the consultation was carried out by the council. The health board seems to have done little in the way of consultation. That is an issue that we should pick up, as it is relevant to the committee.

Dorothy-Grace Elder: The health board will come back and say that it has consulted, but as there is only one plan it is Hobson's choice consultation. I suggest that the convener tries to put a deadline on the reply that we expect from the health board, so that this business does not drag on for umpteen more weeks and well into the summer.

I regard this case as becoming a national issue. Perhaps we can insert something into the letter to that effect. We have examples of improper consultation, and we do not want that sort of thing happening throughout Scotland. I certainly have no hesitation in saying that this is a worthy topic for future debate, as it could cover the whole Scottish situation with regard to acute services reviews.

The Convener: I am trying to pull together all the suggestions. First, we will contact the health board and ask it to provide details of the consultation that it has carried out to date on the proposals. We will seek clarification on what it proposes for services north of the river and on whether a parallel group of proposals, such as already exists south of the river, will be made. The proposal for south of the river is to abandon the present proposals and introduce three different options, on which there will be further consultation. If that does not happen in the north, the committee would have to take a very serious view of the situation.

Secondly, we must emphasise the importance of the number of signatures on the petition. The committee will in some ways treat the petition differently from others, because of the strength of its popular support. For that reason, the health board simply cannot ignore it.

Thirdly, we shall ask the health board to reply

within a month. I think that that is a fair deadline. I do not think that two weeks would be fair.

Is that agreed?

Members indicated agreement.

The Convener: The next petition, PE356, is from Mr Hendry Williams on behalf of Troqueer Homeowners Committee. The petition relates to disputes between local authorities and home owners. Mr Williams is here to speak to the petition, as is David Mundell. I invite Mr Williams to come forward. You will have the usual three minutes to make your presentation, Mr Williams. After two and a half minutes, I shall indicate that you have 30 seconds to go. When you have finished, I shall allow David Mundell to speak in support of the petition.

Mr Hendry Williams (Troqueer Homeowners Committee): I am chairman of the Troqueer Homeowners Committee, which represents some 60 home owners in the Dumfries and Galloway area. We are asking the Scottish Parliament to intervene between Dumfries and Galloway Council and us, the home owners who have bought their former local authority homes. There appears to be no dialogue or mechanism in place for disputes about repairs on the properties. Last year, Dumfries and Galloway Council undertook a survey scheme of all the properties and identified that structural repairs were necessary.

We are home owners living in properties that have a block of four council properties attached. The council has forced a solution on us, which leaves home owners having to pay out thousands of pounds on repairs to those properties. We want equal rights for private owners and councils, not the one-sided state of affairs that exists at present. The council issued opinion surveys and then ignored the result, as it did not like the findings. It has come up with a solution that suits it best financially. As Troqueer is a traditional housing estate, a lot of the people who live there are elderly. The only way to challenge the council is by costly and lengthy legal proceedings. It is difficult to bring an action to court that involves so many people.

We ask the Scottish Parliament to create a dialogue that allows us to be on equal terms with the council. No mechanism exists for that; if the council does not agree to something, it does not happen. Dumfries and Galloway Council is quite happy for us to be on project groups as long as we do what we are told. People across Scotland will be in similar circumstances. Our petition involves everybody. We ask the Public Petitions Committee to establish a resolution or mechanism to help us.

David Mundell (South of Scotland) (Con): The petitioners do not seek to have the committee intervene to resolve the dispute at Troqueer; they

seek to bring forward a mechanism whereby there can be a dialogue of equals between the home owners and the local authority. No one disputes that legal action in such cases would be possible. However in this situation, an action that is generally known as a class legal action would have to be pursued. That allows for up to 60 individuals to come together to take legal action against a single entity—in this case, the council—if they wish to challenge a decision.

It would be appropriate for the Parliament to reflect on whether that is the appropriate mechanism for resolving such disputes and whether there could or should be some form of arbitration or mediation to allow a discussion to take place between equals. That is the difficulty that arises, partly because in these circumstances the local authority wears a number of different hats. If someone lives in a block of four houses, three of which are privately owned and one of which belongs to the local authority, the usual situation of the majority deciding what happens does not apply. As the council is the housing authority and has certain statutory duties, it is in a completely different position from that of the ordinary owners of the property. Where such disputes arise, it is important to have a mechanism that allows full evaluation of the issues without people having to go down the line of a protracted legal case. I support the petition.

The Convener: In your correspondence, Mr Williams, you mentioned that the council held a ballot before it made its decision. What form did the ballot take?

Mr Williams: The council's original ballot form gave seven options, which varied from doing absolutely nothing with the estate to buying back all the affected properties. Under the buy-back option, the council would do all the repairs and the people who had their houses bought back could either move on or remain as tenants. The buy-back option was favoured by a clear majority of home owners. However, the council disregarded it and went for another option, which meant that home owners had to bear the cost of repairs.

Rhoda Grant: Surely the home owners who are being asked to bear the cost can claim the amount off their buildings insurance.

Mr Williams: This has been going on since last May. The first port of call was the home owners' insurance policies, but the insurance companies were not willing to pay out because of the differential between structural repairs and subsidence in the area. However, all the insurance companies sent out surveyors to the home owners' properties. They classed the buildings as safe and sound and said that the repairs that the council required were not needed. The council is totally ignoring what the surveyors said.

John Scott: Without getting involved in the particulars of your case, do you know of other home owners in Scotland who are in a similar position?

Mr Williams: There are some examples in our local area. The council wanted to knock down 16 properties at Kelloholm in Dumfries and Galloway. Councillor Bert Saunders complained and the council relented under pressure. It spent more than £4,000 on each property putting in new windows and roofs, but no tenants could be found for those properties. The council then spent a further £8,000 on each property before demolishing them.

There is another case in Langholm and some cases in Auchencairn. We feel that, when someone buys a home, their home should be their own—the council should not dictate what they have to do. We have no rights, as the council continues to call the shots.

John Scott: The situation does seem odd.

Mr Williams: Yes, it does.

John Scott: People own their houses and yet the council still calls the shots, as you put it.

The Convener: I am aware of similar situations in my constituency for owner-occupiers who are living in former council properties. The local council in my constituency offers grants of up to 75 per cent of the cost to owners. Are you being offered grants?

Mr Williams: Yes, the council has offered grants of 50 per cent. That money has been transferred from the housing revenue account, which some tenants are not happy about. However, that still leaves us with bills of up to £3,000 to £4,000.

The Convener: The difference between 50 per cent and 75 per cent is significant. The percentage that councils offer seems to be a matter of discretion, as there is no agreed mechanism.

Mr Williams: There is no mechanism whatever.

Dorothy-Grace Elder: You said that you were left with bills of £3,000 to £4,000. Is that for each home owner?

Mr Williams: Yes.

The Convener: Okay. Thank you very much.

Mr Williams: Thank you.

The Convener: The suggested action on petition PE356 is that we seek the views of the Scottish Executive on the issues that have been raised. At this stage, we will pass the petition to the Social Justice Committee for information only until the Executive response is received.

Rhoda Grant: I would be interested to know the

position of councils on the issue. I understand that councils can insist that works are carried out on ex-council houses if there are problems—they can make something along the lines of a works order. I would also be interested to find out the position of the insurance companies. If the council has said that the work is compulsory and needs to be carried out, can the insurance company say that it need not be?

The Convener: As well as asking the Executive to respond to the issues raised in the petition, we shall ask it specifically to clarify the legal position with regard to the council's power to impose costs on owner-occupiers. We shall also ask it to clarify the position of insurance companies and whether they would be liable in such circumstances.

11:00

John Scott: We should also see whether some mechanism could be put in place to resolve the situation. If people's only recourse is to go to law straight away, that is hopeless. We should ask whether there are any plans for an arbitration process.

The Convener: We shall ask whether the council has given any consideration to plans for an alternative mechanism for handling such cases.

Dorothy-Grace Elder: Would there be some use in passing the petition to the Local Government Committee as well?

The Convener: Housing comes under the remit of the Social Justice Committee.

Dorothy-Grace Elder: Yes, but the principle relating to what subsequently happens to bought council houses might concern the Local Government Committee.

The Convener: We can certainly copy the petition to the Local Government Committee for information.

John Scott: Would it be relevant to ask the Convention of Scottish Local Authorities to comment? There must be other examples of this type of situation throughout Scotland. As you said, convener, 75 per cent funding is available in your constituency, but it is not available in Dumfries and Galloway. There should be standardisation. That is a matter of general fairness.

The Convener: I would certainly think so. I do not think that there is any problem with asking COSLA to comment.

John Scott: COSLA may have a view on the matter. In fairness, I think that Dumfries and Galloway Council may also have a view, which it might wish to give.

The Convener: We have not had a response

from Dumfries and Galloway Council, but we could ask it to respond as well.

Dorothy-Grace Elder: Is it possible to mention the availability of 50 per cent or 75 per cent funding in our note to the Local Government Committee, which might be unaware of the variation?

The Convener: Yes. We could do that. We are asking specifically for comments about the fact that different levels of grant seem to be offered in different parts of the country. We need to find out the legal position on that.

John Scott: The petitioner would like to say something.

The Convener: If nobody has any objection, the petitioner may speak again.

Mr Williams: Thank you, convener. I would like to add just one point. The council has known about the subsidence in Troqueer since 1983. To my knowledge, that is about the time when the right to buy was introduced. The question that was asked was, "When was subsidence first reported in Troqueer?" The council said that it was in 1983. It is now telling us that it was under no legal obligation to divulge that information to prospective purchasers. If we had known of subsidence in the area at the time, we would not be in this situation now, because no one would have bought their former local authority homes.

The Convener: I am advised that we must be careful not to get involved with individual cases. We are dealing with the national situation, but we can certainly find out whether there is any requirement to divulge known structural faults to any purchaser anywhere in Scotland. We cannot comment on a specific case.

Mr Williams: We feel that this is an important issue, not just for Troqueer in Dumfries, but for every person in Scotland who has bought a former council property.

The Convener: We shall ask the Executive about that point.

John Scott: Are you suggesting that the council withheld that information when your properties were put on the market?

Mr Williams: Yes.

John Scott: There is the saying "caveat emptor"—buyer beware. Presumably you had your own surveys conducted. If you are suggesting that the council deliberately withheld that information, that is—

The Convener: We have to be careful about making allegations in public. If you say any more, you could be getting involved in a potential legal action between the council and the residents and I

do not think that we should be doing that. We can certainly seek clarification from the Executive on the legal position.

Mr Williams: All that the council said was that it was under no legal obligation to divulge that information.

The Convener: We shall certainly get the Executive to clarify the position, in relation to not only Dumfries and Galloway Council, but all councils in Scotland.

Mr Williams: Thank you very much.

The Convener: Are the suggestions that have been made acceptable?

Members indicated agreement.

The Convener: Petition PE351 is from Dr D H S Reid and relates to the ombudsman for local administration in Scotland. It asks the Parliament to initiate an inquiry into the handling of complaints made to the local government ombudsman regarding local authorities. We sought the views of the local government ombudsman on the petition and received a response that notes that Dr Reid has made eight complaints to the ombudsman over a period of 11 years, that none of those eight cases has been the subject of formal investigation and that only three of them have been the subject of an inquiry of the local authority. The ombudsman states that the grounds for not proceeding with consideration of the issues raised in the petition were that the comments did not specify any administrative shortcoming and that the petitioner did not claim a particular injustice.

In response to the statistics that the petitioner supplied, showing that the ombudsman does not pursue many of the cases that are brought to him, the ombudsman indicates that 1 per cent of all complaints received by his office are the subject of formal investigation, while just over 20 per cent are resolved by action by the local authority prior to investigation. The number of formal investigations has progressively declined in recent years as the result of steps taken by the ombudsman's predecessors in seeking to resolve complaints locally. Of the cases that are formally investigated and result in a detailed report, the vast majority result in a finding of maladministration with injustice to the complainant.

The ombudsman also notes that the Executive has recently embarked on a review of his role with the publication of "Modernising the Complaints System". He is satisfied that sufficient reason has been given to the petitioner in respect of his complaint. It is therefore suggested that we pass copies of the petition and the local government ombudsman's response to the Scottish Executive to be taken into account in its current review. It is

further suggested that we agree to pass a copy of the response to the petitioner and to take no further action, as it appears that the Scottish Executive has already undertaken the action that he requested in his petition. Is that agreed?

Members indicated agreement.

The Convener: Petition PE353 is from Mr Tom Pitcairn of the Tarff Valley Heritage Group. It calls on the Parliament to urge the Executive to call in for scrutiny the planning consent given for a meat processing factory on the outskirts of Ringford and to initiate steps to change the law that prevents community groups from appealing to the secretary of state in relation to the planning process.

Alasdair Morgan has been waiting patiently for this petition to come up. I understand that you want to speak to this petition, Alasdair.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): To set the background, let me tell members that Ringford is a small village off the A75 Dumfries-Stranraer road, just a few miles west of Castle Douglas. The Tarff Valley Heritage Group, as far as I can judge from my contacts with its members, is not the usual load of NIMBY suspects. Nor is it simply a group of incomers who do not want their properties to be reduced in value to the detriment of local jobs. Its members form a fair proportion of the inhabitants of the village.

The group's members felt that, although the proposed meat processing plant was agriculturally based—Ringford is in an agricultural area—it was inappropriate for the village, especially as sites zoned for industrial use were available in the market town of Castle Douglas. However, their main complaint was that, when they went to the council committee hearing, at which they were legally represented, they felt that the arguments that they put forward were not listened to. The councillors gave the impression of being a bit impatient or of already having made up their minds. They did not even feel that their legal representative was given a fair chance to put their views across. In fact, what happened was very much like some of the kinds of consultation that we heard described in relation to earlier petitions. The committee seemed already to have its mind made up on the views submitted by the council officials.

The more general point, which is of greater interest to the committee, is that the petitioners feel that, when objectors believe that they have a genuine grievance, the only course of action that is open to them is to seek judicial review of the council's proceedings. They thought of going down that route but, when they looked at the financial implications, it quickly became apparent that that was beyond their means. They feel that it is more than a bit unfair that, although applicants can

appeal to the secretary of state if they are unsuccessful, local objectors cannot. Unless they can find about £10,000 to fund a judicial review, all avenues are now closed to them.

The Convener: Planning permission has been granted, has it not?

Alasdair Morgan: Yes.

The Convener: Could it be overturned now?

Alasdair Morgan: Not as the law stands, although I am not a lawyer—thank goodness.

The Convener: Neither am I; I just act on their advice.

Can we deal with the first part, which is the one we are discussing—the planning decision to approve the meat-processing factory at Ringford? Under suggested action, it is pointed out that the decision of the council in a planning application is a matter in which the Parliament cannot interfere. In any case, we understand that the First Minister can call in planning applications only before planning permission is granted. In this case, that permission has already been granted. It is therefore suggested that the best that we can do is to suggest to the petitioners that they make representations to the local government ombudsman on their concerns about the way that the council has handled the matter. There might be a case of maladministration, but we cannot comment on that.

We have had many petitions on the issue in the second part of the petition, which is the third-party right of appeal against planning decisions. We passed those petitions to the Transport and the Environment Committee, because we were under the impression that it would conduct an inquiry into the matter. However, it appears that there has been a case that might have implications for planning law, which is being brought under the European convention on human rights. The Transport and the Environment Committee has decided not to hold an inquiry prior to the resolution of that case at European level, because the case could have major implications for planning law. The Transport and the Environment Committee will consider the petitions that we have passed to it only once the legal issue has been resolved under the ECHR. However, the committee makes it clear that it is open to the idea of revisiting the matter in future, once the case has been resolved.

It is therefore suggested that we copy the petition to the Transport and the Environment Committee, for its information only, and recommend that the petition be taken into account as part of any future inquiry that that committee might conduct into the planning system. It is suggested that no further action be taken on the

petition. The Parliament must wait until the ECHR case is resolved.

John Scott: There is nothing else that we can do. It is important that the Transport and the Environment Committee considers the matters subsequent to the judgment being handed down from the European court. As Rhoda Grant said, time after time it appears that people feel that they have not been adequately consulted in the planning process, whether on hospitals or on any other of the variety of issues that come before us.

The Convener: To date, we have sent well in excess of 20 petitions to the Transport and the Environment Committee on the issue—it is an issue of which that committee is well aware.

John Scott: I respect the Transport and the Environment Committee's view that it would not be proper to consider the matter before the ECHR case is resolved. However, once that case has been resolved, I would ask that that committee address the matter.

Helen Eadie: I support that view. However, my concern—which I am sure is the concern that lies behind many of the petitions that have come before the committee—is that, while a developer who is refused an application can appeal, the public cannot. We must await the Transport and the Environment Committee's decision. I do not want to add anything to what has been said, but my concern is that that committee should make the issue a key area of activity in the not-too-distant future. I have been a member of the Transport and the Environment Committee since its beginnings and I remember countless petitions on this key issue. If we do not have an inquiry, we will not reflect public opinion.

The Convener: I suggest that, when we pass the petition to the Transport and the Environment Committee for its information, we make the point that it is the view of the Public Petitions Committee that the right of third-party appeals and planning law must be addressed by the Parliament. We hope that the Transport and the Environment Committee will return to that as soon as the European case has been dealt with.

John Scott: We are not in any way trying to prejudge the Transport and the Environment Committee's conclusions.

The Convener: We are saying simply that it should address the issue.

John Scott: It should examine the issue.

Dorothy-Grace Elder: I have not been a member of the committee for long, but I believe that some of the previous petitioners referred to the unfairness of the whole system. While the opposing side has access to advocates, Queen's counsels and so on—everything is paid for—most

of the protestors are council tax payers and must fund their own cases, which can drag on for months. I hope that, if the Transport and the Environment Committee inquires into the third party situation, it also considers the lack of justice for the public in opposing planning decisions.

John Scott: The public must pay for planning decisions twice: through their taxes and when they disagree with them.

Dorothy-Grace Elder: That is massively unjust.

The Convener: There is a case for some kind of public advocacy service that would support third parties who wished to appeal against planning decisions—if they have the third-party right of appeal—but that is not covered in the petition. I am sure that we can bring that issue to the attention of the Parliament.

Is it agreed that we take the suggested action?

Members *indicated agreement.*

Current Petitions

11:15

The Convener: We have a large number of responses to current petitions. The first is the response to petition PE208 from Douglas Hardie, which called on the Parliament to review the proposed parking charges in Melrose. Members will recall that we asked for the views of Scottish Borders Council and passed a copy of the petition to Euan Robson, the MSP for that area. In the period since we dealt with the petition, Scottish Borders Council has contacted us with the results of a trial parking scheme that it conducted in Melrose, which appears to have been extremely successful in freeing space for parking for visitors to Melrose Abbey and has been instrumental in checking the rate of reduction of visitors to the abbey. The council's recommendations conclude that the pay-and-display scheme will be operated again next year between April and October. In addition, it appears that similar charges will be introduced in another six towns in the Borders in early 2002.

The council also had discussions with the objectors and consultees prior to introducing the trial parking scheme. As this is a matter for the Scottish Borders Council, it is suggested that we do not become involved. However, it appears that the scheme has been successful in preventing the decline in the number of tourists who visit Melrose Abbey and, consequently, local businesses. It is therefore suggested that the committee agree to copy the response to Euan Robson—because we contacted him initially—and to the petitioners, and to take no further action.

Is that agreed?

Members indicated agreement.

The Convener: Petition PE243, from Jim Gibson, on the water price increases in the North of Scotland Water Authority area, called on the Parliament to remedy the increases by ensuring that there is effective democratic scrutiny of the public service. In September, we passed a copy of the petition to the Minister for Transport and the Environment, asking for a response to the issues in the petition and to the response that was received from NOSWA. The Executive has replied in full, giving the reasons for the increase in water charges and details of the public consultation on its proposals for assisting two groups of low-income households in particular: those living in the NOSWA area and those living in areas that include higher-band properties. The outcome of the consultation is set out in the paper that is before us. We have also received details of the process for setting water charges and the Scottish Executive's proposals to move to a single water

authority, which were announced recently.

With that, there are tables that contain details of the public meetings—and proposed meetings—of the consultative committee, at which members of the public get the opportunity to discuss issues with the water commissioner. The clerks have a copy of the guidance from the Scottish Executive, which details the functions of the commissioner and which is available to members of the committee. The Transport and the Environment Committee is conducting a wide-ranging inquiry into the structure, investment and charges of the water industry, and the role of the water commissioner.

The action taken by the Executive to assist those on low incomes—including those in the NOSWA area—as well as the inquiry into all aspects of the water industry that is being carried out by the Transport and the Environment Committee, suggests that we should agree to pass a copy of the petition and response to the Transport and the Environment Committee for information only, in the context of its inquiry, and that we should agree to pass a copy of the response to the petitioners and take no further action. Is that agreed?

Members indicated agreement.

The Convener: Petition PE248, from Robert Durward, concerns passing places. We have dealt with the petition at several meetings in the past, most recently on 27 February when, members may remember, we agreed to write to the Scottish Executive, urging it to recommend to the police that they use their powers in relation to the issue.

The Executive's response makes it clear that police forces throughout Scotland strive to deliver the highest possible standards of policing and that they are never complacent about the importance of enforcing road traffic laws, traffic management and road safety laws. However, chief constables are responsible for police operations in their areas and neither the Scottish ministers nor the Scottish Executive have any authority to intervene. Although the police are heavily involved in the prevention and detection of crime, the Executive points out that that does not mean that they do not prosecute drivers who hold up traffic or who otherwise contravene road traffic legislation. That said, the Executive does not feel justified in asking the police to devote their time to enforcing that particular aspect of the law. It is suggested that the committee agree simply to note the latest Executive response and to pass a copy of the letter to the petitioners for information. The committee has already agreed to take no further action on the petition. Are members agreed?

John Scott: I suggest that we write to the Association of Chief Police Officers in Scotland

with all the information that is contained in the petitions, to ensure that ACPOS is made more aware of the fact that the problem exists. I am not particularly happy with our decision to do nothing about the petition; the problem is still very real and the Executive's response says essentially that it is not prepared to do anything about it.

The Convener: We will send to ACPOS copies of all the correspondence that the petition has generated.

John Scott: It might be interesting to find out how many prosecutions there have been in the Scottish Courts over such offences. Without wishing to prejudge the matter, I suspect that the total is very small.

The Convener: Individual members should lodge parliamentary questions on such an issue. As the committee is pursuing this petition, we should by all means pass the correspondence to ACPOS to inform it of the strength of feeling on the issue. However, we should really take no further action, because otherwise the petition could go on forever. Are we agreed?

Members indicated agreement.

The Convener: The next petition is PE259, from Mrs Kirsty Dickson, on the subject of telecommunications masts. She asked the Parliament to take immediate action to stop the erection of telecommunications masts of 15m and under in residential and environmentally sensitive areas. We agreed to pass the petition to the Minister for Transport and the Environment for comments, particularly in relation to the time scale for the introduction of the changes to current planning arrangements for telecommunications developments.

The Executive's response indicates that it has conducted a consultation on introducing new planning controls for telecommunications masts. The results of the consultation are now being analysed and it is hoped that the new controls will be introduced by the middle of the year. The Executive specifically rejects the idea of a moratorium, which is what the petition calls for, but points out that neither the Transport and the Environment Committee nor the independent expert group on mobile phones has, in any case, called for such a moratorium. The current proposal is that all ground-based masts—including those of less than 15m in height, which at the moment enjoy permitted development rights—will be subject to full planning control. That will allow the planning authorities to have a greater say and the public to make representations if they are concerned about the siting and design of such masts. The Executive points out that any new planning regime would not preclude the erection of masts in residential areas, because that would

result in large areas being without network coverage and it would make things difficult for e-commerce in Scotland.

The suggested action is that, as the Executive has no intention of introducing a moratorium, the committee should agree to pass a copy of the Executive's response to the petitioners and take no further action.

Helen Eadie: It is important for Mrs Dickson to know that her views are strongly supported within the Parliament. Motions and parliamentary questions about the issue have been lodged and there have been numerous private appeals and representations from the Transport and the Environment Committee to the ministers. Although I am not contradicting the suggested action—it is unlikely that the policy will be changed—I want to put on record that Mrs Dickson certainly has the support of many MSPs, including me, on this crucial issue. If I remember rightly, the Transport and the Environment Committee's report on telecommunications developments qualified its comments on the subject of multiple users of masts in residential areas, and the committee felt strongly that masts should not be placed near hospitals and schools; they were clearly no-go areas. I recall that the convener of the Transport and the Environment Committee took a strong view on the matter, and it is important for Mrs Dickson and everybody else in Scotland to be aware of the strength of feeling among MSPs on the issue.

Dorothy-Grace Elder: I guess that Helen Eadie's comments describe the committee's unanimous view.

There are several aspects of the matter that I do not like at all. The Executive has dismissed the idea of a moratorium, but it has taken seven months to tell us that. The petition was first passed to the minister at the meeting of 26 September 2000. In the seven months during which you have been waiting for a reply, convener, umpteen more mobile masts have been erected in Scotland. They are popping up on pavements everywhere and are being erected very close to schools—I am called out regularly by people who object to the things appearing literally at the end of their garden wall without any notification whatever. Under such circumstances, the lateness of the response is quite shocking, and some reprimand should be sent to the Executive. It does not have a real excuse for refusing a moratorium, which seems to be a perfectly sensible idea before new planning legislation is introduced.

I also think that the Executive's response should not have talked about

"the absence of any evidence of a causal link between mobile phone base stations and adverse health effects"

blah blah blah. That is merely repetition of a bland piece of absolutely unproven evidence. Fifty years ago, doctors would sit smoking in their surgeries and tell people that there was no link between smoking and cancer. Such a statement about mobile phones should not be repeated by Government at the moment. People have serious concerns—if the matter raises no concerns about health, why does the Executive object to the erection of masts near schools or hospitals? As we have a very serious situation on our hands, we should be quite stern with the Executive on the matter.

John Scott: The Executive has not attempted to exercise—in the short term, at least—the precautionary principle. The Stewart inquiry reported in May last year, and it is taking the Executive too long to issue proposals. I agree entirely with Dorothy-Grace Elder in that respect. The Executive must hurry up because there are real issues at stake and many concerned people out there, including people in my constituency.

John Farquhar Munro: When will the planning legislation that controls the installation of the masts become effective?

The Convener: The new controls will be introduced in the middle of the year. There is no harm in indicating that members of this committee, the Transport and the Environment Committee and others from across the Parliament strongly support the petitioners. However, as the proposals will be debated by the Parliament, the petitioners are getting what they want.

The Executive has apologised for its failure to reply in anything like good time, despite the fact that we have written to it twice, and it has accepted that that was a failing on its part. I hear what members are saying. The committee may take the view that it is disappointed that it has taken the Executive so long to reply. In the meantime, masts that are potentially damaging to local environments may have been erected. The committee may take the view that a moratorium should be considered by the Executive.

11:30

Dorothy-Grace Elder: One has to consider house builders. I am currently dealing with a case in Glasgow Baillieston that involves a nice little estate being built by Barratt Homes. A workman looked over the wall and suddenly discovered a mast right up against the garden wall. That wee estate is worth millions of pounds and has been built in the right place. There were no objections. People are now asking whether they want to buy houses on the estate because of the mast problem. The house developer is as against masts as are the potential house occupiers. Masts are

sprouting up like something out of those old black-and-white 1950s science fiction movies on television.

The Convener: It has been pointed out that part of the reason for the delay in replying was that a consultation exercise was being conducted. That is important and takes time.

Dorothy-Grace Elder: It will be almost a year before—

John Scott: The Executive will delay for ever.

The Convener: You would complain if there was no consultation. The Executive has made a fair point. It had to take time to consult.

Helen Eadie: The Executive could have written to the committee to tell us that a consultation process was taking place.

The Convener: It should have done.

Helen Eadie: It is unforgivable that the Executive did not do so. The critical point is that the public are asking simply for an absolute assurance that there will be no masts on hospital or school sites or concentrations of masts in residential areas.

I use a mobile phone. I love new technology and will continue to use a mobile phone. I am taking an educated risk, but I use my phone minimally. I support new technology—I want that to be in the *Official Report*—but I want to be assured that masts will not be put in the areas that I mentioned. I am sure that the public petitioners throughout Scotland want that too. We have to be sensible about where and when masts are located.

Dorothy-Grace Elder: You and other people admit that there could be a risk. That is why you do not want masts on schools and hospitals. If we crack down heavily on the companies concerned, they may think up newer technology that might not need masts at all.

Helen Eadie: I have never been in any doubt that there is a safety issue. The International Committee on Non-Ionizing Radiation Protection guidelines are European guidelines. The fundamental point that was made by the Stewart committee and the Transport and the Environment Committee was that the level of permissible emissions in this country is five times higher than the ICNIRP guidelines suggest they should be. The guidelines should be tightened up for that reason; the public should not be exposed. The risk is like that from a packet of cigarettes—it is taken at your peril.

John Scott: It is significant that, at least since Christmas, the National Radiological Protection Board has changed its position on the dangers of electromagnetic radiation from pylons. Sir Richard Doll has changed his position from this time last

year. The risks are real.

The Convener: There are real risks. I am not trying to underplay those in any way. Big issues are at stake. There is a business perspective. As the Executive letter points out, if Scotland is to become the best place in the world in which to conduct e-commerce, there will need to be comprehensive coverage for the networks. That will mean the erection of masts. There is a business interest in getting masts up, which the Executive supports. That support is not shared by the Transport and the Environment Committee, whose report was far more critical of the process.

Parliament will address the issue in the middle of the year. Other than sending the response to the petitioner and telling her that she has the committee's support—and that of a wider group in Parliament—for many of her concerns, and that the matter will be addressed by the Parliament in the near future, does the committee feel that we should go back to the Executive about its response?

John Scott: Absolutely. In a sense, the Executive is saying that there cannot be omelettes without breaking eggs. Let us break them carefully and gently and exercise the precautionary principle. That is not being done at the moment.

The Convener: What do members suggest in response to the Executive?

John Scott: First, the Executive should get a move on, suggest proposals and get the matter discussed in Parliament. Secondly, those proposals should take account of the precautionary principle.

The Convener: Should there be early legislation?

Helen Eadie: There is urgency now; there has been a long delay.

The Convener: The Executive should take account of the precautionary principle and the petitioner's views.

John Scott: Others may have things to add.

Dorothy-Grace Elder: Can we include a criticism about the length of time that it has taken to reply on the rapidity of the growth of mobile phone masts?

The Convener: We could certainly say that although we understand that a consultation period had to be allowed for, the committee was not kept informed of the Executive's actions and, in the meantime, many masts have been erected that cause the committee concern.

Helen Eadie: We should underline that we accept, as does the whole of Scotland, that we want to have the business and to roll out the new

technology—there is no doubt about that—but that we want also to underline the precautionary principle. There should be no masts on hospitals or schools or in areas of multi-occupancy accommodation or of high population density. The equipment of multiple communications users should be put on one mast.

Rhoda Grant: I am trying to think of a form of words for our response to the Executive. It has said that it does not want a moratorium, but I am thinking of steps that could be taken in the interim. Even if the Executive urged mobile phone companies to consult councils about where masts are sited, people would have a degree of comfort. There may not be a legal control, but there should be some sort of control, so that people are consulted and do not feel that they could wake up one morning and find a mast in their garden.

The Convener: I think that Steve Farrell got all that—I hope he did, because I am not sure that I did. With all those qualifications, we agree to pass a copy of the response to the petitioner and to write to the Executive in the terms that we have agreed.

Dorothy-Grace Elder: Could you add a request that the Executive try to discover from the mobile phone operators whether there are forthcoming advances in technology that will not use masts? I feel that the mast system is a cheaper alternative—the Exchequer is making billions out of this—and that the companies could do better.

The Convener: It is open to individual members to lodge a question to that effect. The committee would be getting away from the substance of the petition if it did so.

Is what I outlined agreed?

Members indicated agreement.

The Convener: Petition PE325 is from Catriona Windle, on behalf of the Stafford Centre for mental health, and calls on the Parliament to investigate how funding to the centre can be increased to allow the re-establishment and expansion of services providing essential support for those most at risk of suicide and self-harm.

We passed the petition to the Executive for its comments on whether the Scottish health plan had any funding implications for such centres. We have now received a reply that states that extra money has been made available for projects that are directly linked to the framework for mental health agenda for improved care and access to care. The Executive is developing a national framework to address the high suicide rates. Its general policy is to support national organisations that provide service and advice, but to leave the funding of locally based organisations to local agencies.

The case of the Stafford Centre is currently being reviewed by the City of Edinburgh Council and Lothian Health, which will contact the centre soon. The City of Edinburgh Council recently received a 5.5 per cent increase on its 2000-01 mental health specific grant, which it is currently deciding how to allocate after a compulsory consultation with key organisations.

Again, it is suggested that it is not for us to become involved in individual funding decisions for centres. The funding of the Stafford Centre is a matter for Lothian Health and the City of Edinburgh Council. In common with other local authorities, the council is considering how best to allocate its increased money. Therefore, it is suggested that the committee agree to pass a copy of the Scottish Executive's response to the petitioner, recommending that she pursue the matter with the health board and the council, and that we take no further action. Is that agreed?

Members *indicated agreement.*

The Convener: Petition PE326 is from Stella Anderson, on behalf of the Scottish Peoples Mission. Members will remember that the petition is about the return and restoration of the stone of Scone to the community of Scone. At our meeting in February, we considered a response from Perth and Kinross Council indicating that it supported the petition and would be prepared to have the stone relocated to Perth Museum and Art Gallery.

We passed a copy of the council's response, together with the petition, to the Scottish Executive, which has now replied. Its view is clear. A consultation exercise in 1996 showed that 42 per cent of respondents believed that the stone should be retained in Edinburgh. The majority of them supported its location in the crown room of the castle. No significant support was shown for the other options.

The Executive has set out the reasons why it thinks that the stone of Scone should remain in Edinburgh Castle, and claims that the crown room is appropriate for several reasons: the stone lies beside the honours of Scotland, thereby uniting the symbols of the Scottish monarchy; the crown room was built in 1617, specifically to house the nation's treasures; and the room has the appropriate ambience for the stone and is protected by modern security systems that are reinforced by the military presence at the castle.

Details of the cost of running Edinburgh Castle are included in the response. It is suggested that the relocation of the stone to Edinburgh Castle, following the consultation, has been successful and has attracted many visitors to the castle. A significant investment has been made in developing the exhibition and associated displays.

It is for the committee to decide whether it wants

to take any further action on the petition, taking into account the success of the stone's relocation and the amount of investment that has been put into developing the honours of Scotland exhibition.

Dorothy-Grace Elder: In 1996, I supported Scone or Perth as the location for the stone, when the most significant reason that was given for its not going there was the security arrangements. I support those locations even more now. We could make a substantial gesture to the rural communities that are suffering from the present tourism crisis by removing the stone from Edinburgh.

The evidence may show how much Edinburgh is making out of the stone; however, the castle is loaded with tonnes of goodies. The stone has been located at the castle for five or six years. Is not it time to make a gesture to Perthshire, by returning the stone to its home? That would give the area a great boost—especially this summer, when we need good publicity.

John Scott: Are you in favour of relocating the Elgin marbles as well?

Dorothy-Grace Elder: To Greece? Yes.

The Convener: The Executive's view has been held by successive Administrations since 1996, and there is backing for it. However, although 42 per cent sounds considerable, only 46 people may have said that they wanted the stone to be housed in Edinburgh Castle. On the other hand, only the petitioners have suggested that it should go to Scone. People in other parts of Scotland might argue that it should go elsewhere.

John Farquhar Munro: We took a significant step in bringing the stone back to Scotland. It is well housed and is being looked after, and it is a prime attraction. I would not support any plans to remove it from its present location.

Helen Eadie: I support that view.

John Scott: I, too, believe that we should leave it where it is.

Dorothy-Grace Elder: Why?

John Scott: Why not?

Dorothy-Grace Elder: The castle has got everything. There is a lovely museum in Perth—and I am not friendly with Perth and Kinross Council, so members need not worry about favouritism.

The Convener: It is a Labour/Tory coalition, is it not?

Dorothy-Grace Elder: Yes. History has moved on. In the light of the foot-and-mouth crisis and tourism problems, it would be a lovely gesture to take the stone to Perth. I do not think that

Edinburgh Castle needs the stone on top of everything else it has got.

The Convener: A clear majority of members do not feel that there is support for moving the stone.

Dorothy-Grace Elder: Does anybody back me? Och, it does not matter. I am always in the minority. In another 50 years, I will be proved right—when they bury me under the stone.

The Convener: It is open to you, as an individual member, to suggest moving the stone. It is reasonable to say that, in the light of the problems that the tourism industry in Scotland faces this summer, that would be a good gesture for the Executive to consider. Although the majority of committee members do not support the proposal, you can still make it.

Dorothy-Grace Elder: Personally and directly to the Executive?

The Convener: Yes. Given the problems that the tourism industry is facing, that option could be considered.

John Scott: Maybe the stone should be housed in each place in rotation.

Dorothy-Grace Elder: No, it is too fragile.

The Convener: That would cost too much.

Dorothy-Grace Elder: Ian Hamilton is still in Edinburgh, so the stone might be safer in Perth.

The Convener: It might go missing from Edinburgh. If it goes missing, you will be a prime suspect.

Dorothy-Grace Elder: You can have one half and I will have the other.

The Convener: Is it agreed to take no further action and to pass a copy of the Executive's response to the petitioners?

Members indicated agreement.

The Convener: Petition PE328 is from Mr Mohammed Younus Shaikh and concerns the review of water and sewerage charges. It is similar to the petition that we received from Jim Gibson.

We agreed to pass the petition to the Executive and we have got much the same response as we got to Jim Gibson's petition. The petitioner was asking for income support to be used as one of the criteria for assistance, but the Executive has chosen a different set of arrangements to try to help those on low incomes to pay water and sewerage charges. It is suggested that the committee agree to pass a copy of the response to the petitioner and take no further action, given that new proposals have been made and a relevant bill will come before the Parliament anyway. Is that agreed?

Members indicated agreement.

11:45

The Convener: Petition PE329, from William Christie, calls on the Parliament to amend the relevant legislation to make the licensing board procedures fairer and more equitable. The Executive has responded by saying that it has recently announced a review of the current licensing law—the Licensing (Scotland) Act 1976—by an independent committee. The Executive response outlines the remit of that committee and indicates that the petitioner will have an opportunity to put forward his views as part of the consultation process. The chair and membership of the committee will be announced in the near future. A copy of the petition has been placed in the Executive's review file.

It is suggested that the committee agree to pass the response to the petitioner, inform him that he will be able to participate directly in the process of reviewing the licensing legislation and that the Executive has been made aware of the points raised in his petition and that we take no further action. Is that agreed?

Members indicated agreement.

The Convener: Petition PE335, from Lou Howson on behalf of the Confederation of Scotland's Elderly, called on the Parliament to implement in full the recommendations contained in the report by the Royal Commission on Long Term Care for the Elderly and not to commission a further review of the recommendations.

The Executive's response outlines the investment that it will be making in the next three years in improving care services for older people. In January, the minister announced the establishment of a care development group that will be chaired by the Deputy Minister for Health and Community Care and will report to the minister by August this year with proposals for the implementation of free personal care for older people. The response outlines what the Executive hopes will arise from those proposals.

The Executive made clear in a statement to Parliament in October that it did not intend to implement the Sutherland report recommendations in full but subsequently announced the establishment of the care development group to introduce proposals for the implementation of free personal care for older people. It is suggested that we pass the response to the petitioner and take no further action.

John Scott: Could I seek clarification of the Executive's position? Does it intend not to implement the Sutherland report but to establish full personal care for older people? That seems to

be a contradictory position.

The Convener: I do not speak for the Executive, as you know, but I understand that the care development group will produce proposals for free personal care for the elderly and that Parliament will vote on those proposals. That is not to say that the Executive will necessarily support the findings of the care development group, but if the Parliament supports the proposals, they will be adopted.

John Scott: So, while you are not speaking for the Executive, you are no wiser than me.

The Convener: The Executive has made contradictory statements. Initially, it said that it would not implement free personal care for the elderly but it then said that it would set up a group to produce proposals for free personal care for the elderly. Until that group delivers those proposals, nobody knows what will happen. I doubt if the committee knows what its proposals will be as it is still taking evidence.

John Scott: It would reassure Scotland's elderly people if they knew what the Executive was trying to achieve, at least in principle.

The Convener: The final part of the response, which assures us that the Executive will bring forward proposals for the implementation of free personal care for the elderly, is relevant. Those proposals will be produced in August.

Helen Eadie: I am clear about that as well. That was undoubtedly the outcome of the statements that were made previously. Until we have the Deputy Minister for Health and Community Care's report, we will not know the final outcome.

The Convener: Until that time, nobody knows for definite what will happen.

Do we agree to follow the recommended action?

Members indicated agreement.

The Convener: PE340, from George Scott on behalf of the Lochgoilhead Chalet Owners Association, calls for legislation to protect people who own property on rented land. The petitioner wanted similar protection to be offered to chalet owners as is likely to be offered to the Carbeth hutters as a result of a petition that they sent to the Public Petitions Committee. The chalet owners own property on land that is leased from a land owner.

The petitioner also wanted a moratorium until the legislation was introduced. The Executive is suggesting a moratorium, because it is not going to take emergency action. The Executive points out that it is currently analysing the responses to the consultation exercise that was carried out. If ministers decide to progress with legislation, they will be able to decide which classes of property will

be affected.

There are problems for the Executive. Its response points out

"that there is a clear ... distinction between leases and ownership under Scots property law"

and that while it is possible to provide for compensation at the end of a lease should a site owner wish not to renegotiate the lease, the inclusion of such a clause is the subject of negotiation when signing a new lease.

"It is important that prospective purchasers of such leases are aware of their limitations, and seek their own legal advice before agreeing to a lease if they are in any doubt as to the extent of their rights or liabilities ... Leases of second and holiday homes are subject to much less statutory protection ... the reasoning being that such leases are for investment or leisure purposes ... the commercial freedom of contract regime regulates such agreements. This assumes that each party will be independently advised and in a fair bargaining position."

The Executive response concludes:

"To give a tenant guaranteed continuing possession of land without a written agreement to that effect would change the nature of a lease and make it almost identical to ownership. The distinction between ownership and the right to possess property for a given period of time by way of a lease is both a well-established and necessary part of property law ... The Executive understands that the chalets are held on twenty-five year leases. It appears that in some cases, where the twenty-five year period has been completed, the landlord has renewed the lease for five years."

Under suggested action, it states that the Executive has no plans to take emergency action to protect hutters or chalet owners while the responses to the consultation are being analysed, or before any legislation is introduced. While that will be a disappointment to the petitioners, a process is under way that ultimately will result in the introduction of legislation that should offer greater protection to hutters and possibly chalet owners. It is therefore suggested that we pass a copy of the response to the petitioner and take no further action.

John Scott: I seek clarification. Do we know the direction in which the legislation is going? Would it be more appropriate to say that the proposed legislation may offer greater protection? The fact is that the concept of a tenant in Scots law is well established and perfectly clear. In a sense, there is a willing buyer and a willing seller. People who lease properties should do so with their eyes open, because the process is well documented.

The Convener: I am advised that the Executive has not fully analysed the results of the consultation process or how to define which properties will be protected under any new legislation, so it is not known whether chalet owners will have similar protection to that which may be offered to hutters. We will not know until

the responses to the consultation have been analysed and proposals for a change in the law are published.

John Scott: I wonder whether the phrase "should offer greater protection" is an indication of the Executive's thinking, or whether the phrase should be "may offer greater protection." Are we being told that the forthcoming legislation will offer greater protection?

The Convener: I think that the Executive is hedging its bets until it introduces legislation. It is not making a commitment one way or the other.

Dorothy-Grace Elder: I do not like the word "possibly" in the phrase "greater protection to hutters and possibly chalet owners." I know that the Executive must do a thorough job in investigating the legislation and determining what could be done, but there is no promise that chalet owners are being considered.

The Convener: They are being considered. The Executive response states:

"As regards specific provisions for chalet owners, the consultation paper acknowledged that one definition could include 'chalets' used as holiday homes which have been purchased by the occupier (frequently from the site owner) although the site itself is only leased for a specific period ... The Executive is currently analysing the consultation responses and once this is complete, Ministers will be able to decide whether to proceed with legislation and, if they choose to proceed, any definition of the class of properties which might be affected."

If the Executive decides to go ahead with legislation, it will have to decide whether to include chalets along with huts. The Executive has not come to a conclusion yet.

Dorothy-Grace Elder: Could we state our opinion on that when we write to the Executive? This is a particularly difficult area, as you know. Without going into too many details, this caravan/chalet area is known as Campbell's kingdom.

Helen Eadie: Convener, would it not be more appropriate for us to respond as individual members? We are all given these consultation papers. If we want to express a view on them, it is down to us to write to the ministers concerned, expressing that view. For the committee to take a view like that, we would have to have a full hearing of all the evidence. I do not know the ramifications of going down one route or another; I would want to take an informed decision.

John Scott: The third paragraph from the bottom on that page, which Steve Farrell referred to, is worthy of note. The Executive states:

"It is important that prospective purchasers of such leases are aware of their limitations, and seek their own legal advice before agreeing to a lease if they are in any doubt as to the extent of their rights or liabilities."

The onus is on the tenant to establish what they will receive in exchange for their rent, before signing up to a lease. That is well established under Scots law.

The Convener: To be fair, if I remember rightly, the petition from the Carbeth hutters was referred to the Justice and Home Affairs Committee. That committee held the hearings and did the work on the matter, and it was eventually debated in the Parliament. It would be difficult for this committee to take a view, because we have not got any evidence on this. I do not know the ins and outs of the situation. Given that there has been a consultation and the Executive will have to come to a decision on it one way or the other, that will be the appropriate parliamentary process by which the matter can be handled. The issues raised in the petition can be raised as part of that process.

Is it agreed to take the action that we suggested, which is to pass the response to the petitioners and take no further action? It is up to the Parliament now.

Members indicated agreement.

The Convener: PE343, from Mrs Thea Rae, is on the review of contract law. Members will remember the petition from our meeting on 13 March. Mrs Rae called on the Parliament to review and amend the existing law pertaining to contracts between building companies and their clients.

At the meeting in March, we agreed to pass the petition to the Executive to respond to the issues raised in it. We also agreed to write to Fife Council to ask for a copy of its housebuyers charter and to pass that, and the petition, to the Law Society of Scotland for its comments on the advice given by solicitors to potential buyers of new homes.

We have three responses. We have the response from the Law Society of Scotland, which is in consultation with the Scottish House Builders Association, and which has indicated that it is willing to contact us in April, after it has had further discussions with building companies.

We also have a response from the Scottish Executive, which points out that the unfair contract terms fall within the area of consumer protection and are reserved to Westminster. It indicates the legislation that could be used to make a claim on unfair contracts and highlights the role of the director general of fair trading.

We have also established that Fife Council launched its "Essential Guide for Housebuyers" at the beginning of February and also its housebuyers charter, a copy of which has been attached to the papers. It has been sent out to national builders involved in complaints that have been received about developments in the council area. The council has had a response from only

one of those builders. Although the company found it helpful, it could not adopt the conditions in the charter. The council's next step is to report on the initiative to COSLA, in the hope of getting more authorities on board and also to contribute to a campaign to get house builders to adopt the principles in the charter. It believes that this will be a long-drawn-out process.

It is suggested that we await the formal response from the Law Society of Scotland, copy both the responses to the petitioners in the meantime and agree to recommend to the petitioner that she may wish to contact her local authority trading standards department or the director general of fair trading about her case.

John Scott: I agree. I have to declare an interest, because Mrs Thea Rae is one of my constituents. I know that there is a huge strength of feeling about this matter in Ayr. Residents are in the process of forming an action group, because the situation is such that, 18 months down the line, some of them are effectively homeless because they have sold existing homes as they expected to get into the new flats and are still unable to move in. It may be some time before they do.

The residents have been hugely disadvantaged. From my reading of the Executive response, although we can suggest that they apply to the director general of fair trading, through the trading standards people, the third paragraph of the Scottish Executive's letter to Steve Farrell would suggest that that may or may not work. It does not seem to be a hugely effective response. That highlights the need, if it is necessary for it to be highlighted, for new legislation to be created to stop this happening again.

Helen Eadie: I concur with the views that John Scott has just expressed. The law in this area needs to be looked at. The committee could write back to the minister to say that one way forward would be for the minister to name and shame companies, in the way that Helen Liddell did for the pensions scandal. I know that we do not have Westminster's parliamentary privilege—we were not able to mention the name of the company when we first dealt with the petition from John Scott's constituent—but where, as in this case, there is clear evidence of companies flouting every sort of rule and going against fair practice, there ought to be some procedure by which we could name and shame such companies.

I would certainly back proposals to change the law, because there are people in my constituency who, having bought a house that was shown in a brochure, found that the house that they moved into was entirely different from the house that they signed up to buy. There was then nothing that they could do. There are current court cases about that.

12:00

The Convener: It has been pointed out to me that consumer protection remains with the UK Parliament. To change the law, action from Westminster would be required.

If Helen Eadie wanted to write as an individual member, she could do that. I see no reason why we cannot ask the Executive for its position on Fife Council's housebuyers charter. We could ask whether the Executive would lend its support in encouraging all local authorities to develop such charters. The Executive could even indicate which developers refused to sign up to such a charter. In that way, naming and shaming could come into play. However, a charter that offered protection to people would first of all need to be agreed across the local authorities. It could be very effective.

John Scott: Will we pursue that through COSLA?

The Convener: We could pursue it through the Executive in the first instance. We will ask if the Executive would be prepared to support such a concept. Fife Council is already pursuing the issue through COSLA.

Dorothy-Grace Elder: We could also consider naming and shaming through Westminster vis-à-vis the Liddell instances. Also, although Helen Liddell is no longer in that role, a copy of the correspondence could go to her as Secretary of State for Scotland.

The Convener: Yes, a copy will be sent to her for her information. Is that agreed?

Members indicated agreement.

The Convener: The final response that we have had so far is to petition PE350 from Mr Mike Sutherland, on fishing in the Moray firth.

We agreed to draw the attention of Scottish Natural Heritage to the petition. We also agreed to pass a copy of the most recent Scottish Executive response on petition PE246 to the petitioners and recommend that the petitioners approach the Scottish Executive and the local management group that was set up following the previous designation of a special area of conservation.

The response from SNH indicates that it will include petition PE350 in its consultation and discussion process. The letter also indicates that it has been trying to contact Mr Sutherland about his concerns. We have already agreed to take no further action, but the SNH response is for members' information only. A copy of the response will be passed to the petitioners.

Section M of the document that members have before them sets out the latest position on petitions PE145, PE265, PE295 and PE323. Members can raise any concerns that they have.

Inadmissible Petitions

The Convener: A petition from Mrs Mary-Ann Cook, which called on the Scottish Parliament to instruct One 2 One to remove the mobile phone mast that is located on Broom Road in Kirkcaldy, Fife, is inadmissible. It is not possible for us to take the action that the petitioner requests. It is recommended that the petitioner be advised that the petition is inadmissible and that no further action be taken.

Dorothy-Grace Elder: Perhaps she should also be advised of our views from today's meeting.

The Convener: Yes, we could also give her our views on the general issue.

Convener's Report

The Convener: The only thing that I should tell members is that the application for support for a trip to Germany goes to the conveners liaison group this afternoon. At the next meeting of the committee, I will report back on whether we get a positive or negative response.

Dorothy-Grace Elder: Was that for September during the SNP conference, convener? Did we not have a choice of dates?

The Convener: It is the week after the SNP conference.

Dorothy-Grace Elder: Oh damn.

The Convener: I take it that you were trying to avoid the SNP conference.

Helen Eadie: As a matter of interest, convener, one of my bits of holiday reading said that, in Germany, a public petition that gathers 50,000 signatures automatically goes forward to their Parliament for legislation. I thought that that was interesting.

The Convener: Given the discussion that we had earlier on about the petition concerning Stobhill hospital, we could look at that issue—if we get to go out there.

John Scott: We would need to treat that with caution. Some months ago, we had a discussion about the inadmissibility of a petition in which the signatures were forged.

The Convener: Absolutely. Any petition would have to meet the criteria.

Helen Eadie: Presumably the office staff are doing all that checking and screening anyway, so that would be taken care of.

The Convener: If there is no other competent business, I thank everyone for their attendance. It has been a long meeting. Thank you for your attention.

Meeting closed at 12:04.

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