

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 18 December 2001  
(*Morning*)

Session 1

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## PUBLIC PETITIONS COMMITTEE

16<sup>th</sup> 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)

\*Phil Gallie (South of Scotland) (Con)

\*Rhoda Grant (Highlands and Islands) (Lab)

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

\*attended

### THE FOLLOWING ALSO ATTENDED :

Eddie Egan

Brian Clark

Jackie Doyle

Wendy Harris

Mark Hazelwood (MS Society Scotland)

Mr Adam Ingram (South of Scotland) (SNP)

William McCormack (Dumfries Welfare Rights)

Bristow Muldoon (Livingston) (Lab)

Rev Iain Murdoch

Mr Gil Paterson (Central Scotland) (SNP)

### CLERK TO THE COMMITTEE

Steve Farrell

### ASSISTANT CLERK

Ruth Cooper

### LOCATION

Committee Room 2



## Scottish Parliament

### Public Petitions Committee

*Tuesday 18 December 2001*

*(Morning)*

[THE CONVENER *opened the meeting at 10:06*]

**The Convener (Mr John McAllion):** I welcome everyone to the 16<sup>th</sup> and final meeting this year of the Public Petitions Committee. I apologise for the slight delay in starting—it has taken some time to get everyone into the room and to sort out the technology for the meeting. I do not know whether we have saved the best until last, but we have certainly saved one of our most challenging and crammed agendas until our final meeting this year. Without further ado, we will move straight on to the agenda for today's meeting. We have received apologies from Dr Winnie Ewing.

### New Petitions

**The Convener:** I draw members' attention to the fact that this morning an extra petition has been added to our agenda. Petition PE434, from Mrs Jeanna Swan, relates to the Protection of Wild Mammals (Scotland) Bill and its implications for animal welfare. We will deal with that petition last. A paper relating to the petition is being circulated.

### Health Education (Guidelines) (PE427)

**The Convener:** The first of the new petitions is petition PE427, from Rev Iain Murdoch. The petition, which has more than 13,000 signatures, calls on the Scottish Parliament to urge the Scottish Executive to withdraw its list of resources for health education and to ensure that all teaching materials comply with the more recently approved guidelines issued by the Scottish Executive education department on the conduct of education in schools. Rev Iain Murdoch is here to speak to the petition. Gil Paterson MSP, who has an interest in the petition, is also present. I ask Rev Iain Murdoch to introduce his colleague.

**Rev Iain Murdoch:** I am a minister at Cambusnethan in Wishaw. I have brought my wife with me but I am afraid that Mgr Michael Conway, my Roman Catholic colleague, who would have liked to accompany me to this meeting, has not been able to get cover. I will speak only for myself, but the petition is in the name of both of us and of the many people who signed it.

**The Convener:** You have three minutes to make an opening statement. We will then take

questions from members of the committee.

**Rev Iain Murdoch:** I thank the convener and members of the committee for allowing me to speak to the petition. Since our first meeting in March and in later letters, officials and politicians have not given us straight answers; they have dismissed our concerns as exaggerated or irrelevant, claiming that we have taken things out of context. It is still being denied that the list is official and that resources are designed for use in the classroom. I refer members to the letter that the Minister for Education and Young People wrote to MSPs on Friday.

I would like to believe all the assurances that we have been given, but some defy plain common sense and the facts. As we are faced with a brick wall of contradiction and denial, the Public Petitions Committee offers us redress and the possibility that our concerns will be given proper consideration, without fear or favour.

I have supplied members with coloured sheets that have been culled from books on the list of approved materials. We ask MSPs to consider carefully not just those explicit excerpts, but the use of unsuitable resources generally. Close scrutiny will confirm that those resources flagrantly contradict and undermine the Executive's guidance on sex and drugs education. I do not think that the Executive wishes to adopt a new approach, in breach of assurances that were given to the Scottish Parliament in March 2001. However, if it continues to recommend inappropriate and irresponsible resources and to condone their continued recommendation and use in some council areas, its assurances will become worthless.

The materials sideline morality and encourage children to experiment with sex and drugs and to break the law. The two drugs packs both accept illegal drug use as inevitable and normal and claim that dangers are exaggerated. The sex education materials are gratuitously and inappropriately explicit. Marriage is completely sidelined. The resources ignore the real option of saying no to illegal drugs and early sexual activity. I can provide members with many examples, in addition to those that are quoted in my supporting document.

There is a clear *prima facie* case for saying that the guidance required by Parliament is being ignored and flouted. MSPs, the Education, Culture and Sport Committee and the Executive should re-examine which classroom materials are recommended. Some on the official list are educationally and morally flawed. They contravene and invalidate the statutory guidance that was much trumpeted by education ministers and officials in circular 2/2001. That document requires instruction appropriate

"to each child's age, understanding and stage of development"

and facts to be presented in a

"balanced and sensitive manner within a framework of sound values".

Pupils are to be encouraged

"to appreciate the value of stable family life"

and

"commitment in relationships ... including the value placed on marriage by religious groups and others".

They are also to be encouraged

"to recognise the ... moral implications ... of behaviour"

and

"to understand the importance of self-restraint".

We all agree with those statements. They are often quoted, but in practice they are too often ignored.

The petition is competent and should be referred to the Education, Culture and Sport Committee. The Scottish Parliament and the Executive have responsibility in education for giving guidance to local authorities and ensuring that it is followed. The choice of teaching materials is not always a mere detail that should be left to quangos to advise on and to local councils, school boards, teachers and parents to check. The previous Minister for Education, Europe and External Affairs quite properly accepted that it was his responsibility to be concerned with details of the workings of the exam system and to intervene, rather than to leave everything to the relevant agency. Parliament and the Executive should ensure that classroom materials comply with statutory guidance.

It is important that pupils in our schools receive appropriate, clear information and are equipped to handle the pressures that they may face. The Executive and the Parliament should give a lead in encouraging a more balanced list of resources that meets statutory guidance and the assurances that have been given to Parliament and to the public.

Why should I bother with this issue? I am busy—I am a parish minister and this is not my priority. However, over a six-week period last year, I had to deal with the so-called sudden deaths of three youngsters, all of whom lived within half a mile of one another. Those who signed the petition are not just church people, but health professionals, ordinary parents and grandparents, and ordinary members of the public. They are not moral fanatics who are yearning for some fantasy world of innocence. We live in the real world of individuals, families and communities that are damaged by premature sexual activity and promiscuity, by drug dependency and by violence

that is often fuelled by a culture of hard drinking. In that context, it is vital to present people as far more than sex objects and to teach the value of commitment, self-respect and relationships—to instruct pupils not just in the mechanics of sex, but to build a moral framework for life.

That is what Parliament and the public were assured would happen, but it is not what is happening. For the sake of our young people, please do not blindly accept the assurances that have been given, but allow our petition to be considered objectively and impartially.

**The Convener:** Thank you. Before members of the committee ask questions, Gil Paterson wants to make a point.

**Mr Gil Paterson (Central Scotland) (SNP):** I will come in after the committee members to ask questions on any points that they miss.

10:15

**Phil Gallie (South of Scotland) (Con):** I thank the petitioner for an excellent presentation. You asked why you should bother. I have seen much of the material to which you refer. I wrote to Jack McConnell and asked him to send it to all MSPs so that they, too, could examine the detail. He refused—I am not sure why.

You have presented your petition to us, but we have received a letter, dated 14 December, from the Minister for Education and Young People, which says that you are distorting the situation. How do you answer the minister and what do you expect of the committee?

**Rev Iain Murdoch:** I have not distorted the situation. I have merely quoted and given examples from the materials that are recommended in the Executive's "5-14 National Guidelines Health Education Guide for Teachers and Managers". I believe that the minister's letter says that there is no Scottish Executive-endorsed or recommended list of resources for sex or drugs education. Well, the guide for teachers and managers has the Scottish Executive's imprint. It is referred to as a basic document in the 2001 circular. It contains a clear list of resources that are suggested as useful.

Whether that list is official, recommended or endorsed may be a matter of semantics. The fact remains that it is the only official list that has been produced. It is the only list of resources that has been published on behalf of the Executive. I would like the Executive to take responsibility for it. The guide goes much further than any previous guidance and gives a clear list of resources. It is not a balanced list. We would like the Executive to address that.

**Phil Gallie:** You have second-guessed my next

question. The minister, as you say, states that the Executive has not endorsed or recommended anything. However the Executive has provided national advice and guidance. How do you define the difference between those two things?

**Rev Iain Murdoch:** That is difficult. The Healthwise materials are all designed for classroom use. On almost every page there is advice that the sheets may be photocopied. Some of the examples that I have given are clearly designed for easy and convenient use. That is the purpose of the sheets. For education authorities and busy teachers who are under pressure, the plain import is that the sheets are a resource that they can pick up and use. The wording is clearly geared towards that.

When we met the then Minister for Education, Europe and External Affairs in March, he was seeing "Taking Sex Seriously" for the first time—we showed it to him. Since then, there have been denials that there is anything harmful in the materials. I defy anyone who reads the documents and considers the nature of the materials and the principles behind them to think that there is nothing harmful in them. They make it clear that, in a moral framework of tolerance, there should be open discussion and a removal of inhibitions. Those materials are not helpful, appropriate or suitable.

**Phil Gallie:** Thank you. I have a series of questions but I recognise that others want to come in. Perhaps the convener will allow me one more question at this point; if opportunity allows, I will come back with more questions.

The minister's letter makes much of parental involvement, as did letters from Jack McConnell in his previous role. However, it seems to me that the one thing that is missing is the ultimate parental decision that a child should not be allowed to participate in a class taking such an educational route. Do you have strong feelings about that? Should there be a parental right to take a child out of sex and drugs education in schools?

**Rev Iain Murdoch:** There is a parental right to withdraw children. That right comes from European legislation and is referred to in the Executive's circular. However, if we have to rely on a right to withdraw, we have admitted defeat. We should be able to send our children to school without worrying that they are going to be singled out because their parents are clear that the materials are not suitable. Some local authorities are using those materials. I am not aware that there has been full consultation in every instance; I am certain that there has not been.

**Rhoda Grant (Highlands and Islands) (Lab):** Is not it the case that a lot of those resources are for the teachers' use, to inform them before they

teach the class? It is up to the local authority to ensure that the material that is used to teach that class is suitable.

**Rev Iain Murdoch:** It is true that local authorities have recommended the materials. Where they have been recommended, it is as a resource for teachers. However, it is clear when one reads through the material, especially that produced by the Healthwise organisation in Liverpool, that it is designed for handy and convenient use.

I spent 14 years as a schoolteacher. I never had to teach sex or health education or the equivalent. As a young teacher, I would have felt inadequate and intimidated by the prospect of doing so. Some teachers, councillors, education officials and head teachers have said that they would not allow such materials to be used or lifted in the classroom.

Those materials are for the convenience of teachers and teachers are under pressure. If there are such well-produced, glossy, efficient and well-presented materials, there is a considerable temptation to lift those materials and use them as they are. They are designed to be lifted and used as they are, despite the odd caveat that has been thrown in here and there.

I ask people to read the materials from cover to cover. I also ask the Minister for Education and Young People and her officials to do so. In local authorities, such as North Lanarkshire Council, where the materials have been brought to the attention of councillors, there has been almost universal disgust and a feeling that the resources are not suitable. They are not just teachers' resources; their nature is that they are designed to be used.

It is all very well to say that, even if the materials are not used, they are useful because they inform teachers and give some factual information, but their whole ethos is distorted. The materials start with the underlying principles that drug laws are wrong and that harm is grossly exaggerated. That contradicts the Executive's previous official guidance and assurances. The same applies to the attitude to sex—there seems to be a gay abandon and a gratuitous and inappropriate approach to the whole business of sexual activity.

**Rhoda Grant:** In your answer, you said that you would have felt inadequately prepared to teach sex education. As we do not have teachers who learn to teach sex education at university, surely teachers must be provided with more information than they need to teach. That is the case with most subjects. Most teachers have access to more information than is in the curriculum, so that they can be adequately prepared to answer any questions that may be asked.

**Rev Iain Murdoch:** The four materials that were

produced by Healthwise do not only give information; they also give misinformation. The principles that lie behind the materials are insidious. The materials suggest that, when primary school teachers are preparing to teach sex, there should be brainstorming sessions in which teachers are encouraged to share their sexual experiences and to overcome their inhibitions. That does not seem to be a healthy approach. This stuff is fundamentally flawed.

I ask people to look at the materials. I do not know whether members have read the materials from cover to cover or whether education ministers past and present have done so—perhaps people have simply accepted the assurances of ministers.

Jack McConnell's letter refers to the McCabe committee, which included representatives from the Catholic church and the Church of Scotland. Back in March, Mr McConnell said that the Church of Scotland representatives were quite okay with the materials. However, having given the materials a closer examination, those representatives have made it clear to the education minister that the materials are not okay. We are asking people to think again.

**Rhoda Grant:** Have any of the materials about which you are concerned been used in a classroom to teach children?

**Rev Iain Murdoch:** Yes. We have heard that from parents in various places.

**Rhoda Grant:** Can you expand on that? Whereabouts has that happened?

**Rev Iain Murdoch:** I have heard that the materials have been used in Fife and in Perth. They were used in Glasgow before they were withdrawn. The materials have also been used in an Edinburgh school and are recommended for use by Dundee City Council, Angus Council, Fife Council, Scottish Borders Council and Orkney Council. I understand that the materials are being used by those local authorities.

Not all the materials are used. The principal ones that are used are "Taking Sex Seriously" and "The Primary School Sex Education Pack". Only one authority—Fife Council—recommends the drugs material that is so clearly inappropriate and against the wishes of parents.

**Rhoda Grant:** Do the teachers hand out to pupils the material that you are concerned about?

**Rev Iain Murdoch:** My understanding is that the material is used in the classroom and that inappropriate handouts have been received. I am not a full-time politician or researcher. It is probably not the remit of the Public Petitions Committee to investigate all the details, but the matter should be remitted to the Education, Culture and Sport Committee to uncover the real

facts. Great play has been made about stating things on the record so that we can get to the reality. I would welcome clarification of what is really being taught and of what guidance is being given to teachers.

**Dorothy-Grace Elder (Glasgow) (SNP):** I congratulate you on giving us your carefully worked out research and evidence. This is probably the first time that members of the Scottish Parliament have seen clear pinpointing of what is wrong with the material.

You referred to photocopying. Phil Gallie mentioned that he wrote to the then Minister for Education, Europe and External Affairs, Jack McConnell, to ask that some of the material be photocopied and handed round to MSPs. It seems that our ears and eyes are too delicate to absorb what seven to 11-year-olds might be taught under the influence of this material, because we were not given copies. That is entirely wrong. Every MSP of every party should know what is in the material. One of the recommendations that I will make, if the committee agrees, is that the material that you have brought be photocopied and circulated. It is accurate and comes straight from the teaching resources. I think that the majority of MSPs will be pretty shocked when they see it up close, as they have not done before. There has been too much airy-fairy concealment.

10:30

Although photocopies of the material might not actually be handed to pupils, your concern is about the influence on teachers of such material, which is officially approved in some way for the teaching of children aged 11 to 14. They are supposed to be taught about sadomasochism before they can even spell "masochism" and they are supposed to be taught about multiple partners. The official line for teaching seven to 11-year-olds is that most people who take drugs come to little harm. As you say, no option is given for saying no to early sexual activity and no option is given for not indulging in the illegal drugs scene. It is as if those things are okay. Do you agree that it would be useful to circulate the material to every MSP? Believe me, they have not seen it.

**Rev Iain Murdoch:** It would be useful. However, it is important to say that the material that I have shown to the committee is just selected highlights.

**Dorothy-Grace Elder:** Lowlights, more like it.

**Rev Iain Murdoch:** There has been great play about items being taken out of context or sensationalised. I would like people to see the full material for themselves. The introduction to the primary school sex pack says that it is a toolkit of resources and activities that may be of use. Of course, teachers do not have to pick everything



up. The introduction to "Taking Sex Seriously" says that purchasers of the manual should be able to copy sections of it to use as handouts in sessions with groups. There are clear lesson plans and a scheme of lessons is laid out.

The material gives an underlying message to young people. All adolescents are insecure about themselves, but the material appears to give the message that everybody is sexually active or is taking illegal drugs. Pupils might feel that if they are not involved in such activities they must be missing out.

**Dorothy-Grace Elder:** Do not seven to 11-year-olds get that message, too, if it is conveyed to them by the teacher after reading the material?

**Rev Iain Murdoch:** I would be careful about jumping to conclusions, but there is a danger that the pure mechanics and procedures of sexual activity are expounded without any reference to the things that are mentioned in the circular—the need for relationships, the appropriate context, self-restraint and so on.

**Dorothy-Grace Elder:** Mr McConnell's replies to you are quite lengthy and thoughtful and he has put a lot of work into them. Nevertheless, I agree that there is a vagueness about overall responsibility, because there are Scottish Executive-produced documents behind the materials and Scottish taxpayers' money has gone into them. Is your message that the taxpayers are paying for the materials, that the buck stops with the Parliament and that you want MSPs to act?

**Rev Iain Murdoch:** Yes—there has to be public responsibility. Education is too important to be left purely to quangos, which are not answerable or accountable agencies. In this case, they are irresponsible agencies.

**Mr Paterson:** Can we cut to the chase? Are you against sex education and drugs education in schools?

**Rev Iain Murdoch:** No, of course I am not. It is important that young people get clear information and a framework on which to base their decisions. They need to understand the mechanics of sexual activity and the importance of contraception. They also need to understand the importance of self-restraint and self-respect, as well as the importance of commitment and relationships. One should not be taught without the other, but that seems to be the implication in "Taking Sex Seriously". I do not see the need for primary-age children to be given information about sexual stimulation and about what goes on in homosexual intercourse. I do not see the need for first-year and second-year pupils to be invited to explore a variety of bizarre sexual activities.

**Mr Paterson:** I wish to take you back six months

or so, when you were discussing this matter with people who had no knowledge of it. What was the effect of showing people the documents in question? Did anyone say that the materials were okay?

**Rev Iain Murdoch:** Some people have heard me discussing the materials and have said to me that we need open education and that we must be blunt with young people, who are getting information from all around them, including the media. In that case, it is even more important to give them objective information and a framework in which they can make their choices. The majority of people who have seen some of the workbooks have been absolutely appalled by them, in particular by some of the examples given, by some of the worksheets and by the underlying assumptions in them.

**Mr Paterson:** Are you asking people to make judgments about the documents based on your say-so, or are you asking MSPs to look at the materials and then form a judgment themselves?

**Rev Iain Murdoch:** I am asking MSPs to consider the materials and to make a judgment on that basis. I am not asking them to take my word for it, just as I am asking them not to take the word of the former Minister for Education, Europe and External Affairs or of officials for it. I am asking them to approach this with an open mind.

I know that you, like many people, were sceptical when you first saw our material. You probably thought, "This is from the God squad" or that we were presenting a moral agenda and banging the same old drum. It is not that. This is for real, and the reality is appalling. The materials that have been produced seem to contradict and undermine the relevant statutory guidance. That is what I am asking people to consider.

Although my view, as a Christian, would be narrower, the guidance, which was issued as a circular, was hammered out and people were willing to accept it. I ask members to consider that it was on that basis that the public and the Parliament were led to expect that the guidance would be applied, and we are asking that it be applied.

**The Convener:** You said that you heard from parents that the materials were being used in schools throughout Scotland, for example in Fife, Perth, Glasgow, Edinburgh, Dundee and Angus. The committee's role is to decide whether your case justifies the material being passed to the Education, Culture and Sport Committee for further investigation, so we need to be absolutely clear about what you are saying. Are you telling the committee that you have evidence that the material that we have seen this morning is being used in Scottish schools to teach children in the

age group seven to 11, or in any other age group?

**Rev Iain Murdoch:** The evidence that I have is from individuals who have phoned and passed it on by word of mouth. I do not have documentary evidence, apart from guidelines and curriculums from various councils, which have admitted that the materials are recommended and are being used.

**The Convener:** They may be being used, but not necessarily in classrooms. Perhaps they are being used for teacher guidance or training. There is a huge distinction.

**Rev Iain Murdoch:** I have had reports from parents that these materials are being used, by which they mean that they are aware that "Taking Sex Seriously" and "Safe and Sound" are being used in the classroom.

**The Convener:** In what sense are they being used in the classroom? Do you have evidence that these materials are being given to children?

**Rev Iain Murdoch:** The only evidence that I have that they are being used in the classroom is that people have told me that they are being used. I do not have photographic evidence. I am a parish minister who works seven days a week. I have not got the resources to pin things down, but Parliament has. Parliament can get the information; it can instruct education authorities to provide the information. Officials can come clean about some of the contradictions that they seem to deny. There are certainly local authorities that have admitted that such materials are recommended for use in their schools, and that they are being used.

**The Convener:** As you said, you are only a parish minister and you do not have the resources to look into the matter in detail, but the Church of Scotland and the Catholic church were fully involved in the McCabe committee and they declared themselves to be satisfied with the safeguards that were issued in the guidelines. You really have to make a case here. First, what wider support—other than you and the monsignor who was unable to come here this morning—is there behind the petition? Does the Catholic church endorse the petition? Does the Church of Scotland endorse the petition?

**Rev Iain Murdoch:** The convener of the education committee of the Church of Scotland, Jack Laidlaw, has written on behalf of his committee to the Minister for Education and Young People asking for these unsuitable materials to be withdrawn. My understanding is that that is the position of the Catholic church as well. McCabe came first, then came the five to 14 guidelines from the Executive—although they were produced by Learning and Teaching Scotland—and then came the circular. The churches were happy with

the circular. However, the circular referred to the guidelines and on further examination the Church of Scotland and the Catholic church have asked for them to be withdrawn.

**The Convener:** Are there any final questions?

**Phil Gallie:** Convener, the point was made that—

**The Convener:** If it is a point for discussion, we can address it when we discuss the petition. At this stage, we are questioning the petitioner.

**Phil Gallie:** Reverend Murdoch is a minister of the cloth and has not been able to demonstrate that the material is being used in full force with children by pinpointing where his information has come from. However, has Jack McConnell, who is a minister of the Crown, been able to demonstrate that the material has not been used? He tells us that it is up to individual teachers, so he is not in a position to demonstrate that it is not being used. Does Reverend Murdoch have evidence of such demonstration?

**Rev Iain Murdoch:** I do not have any evidence from Jack McConnell, the previous Minister for Education, Europe and External Affairs. He said that the materials might be useful, in whole or in part.

Mr McConnell said that there was nothing harmful in the drugs education material and that he welcomed it, but that view seems to go against all previous guidance. If you want me to pinpoint the previous guidance that that advice contravenes, I can give you chapter and verse on it, but I imagine that you do not have time for that at the moment.

**Dorothy-Grace Elder:** Was there anything in the materials to assist children in avoiding abuse?

**Rev Iain Murdoch:** No. That is the straight answer. There are occasional warnings to look out for the signs, as teachers should know their children, but that advice is of no use when outside professionals are brought into a class.

**Dorothy-Grace Elder:** So there was not much advice to assist children in avoiding abuse, or on recognising the signs of abuse and warning teachers about what to look out for.

10:45

**Rev Iain Murdoch:** No. Some of the primary school material talks about inappropriate touching and children being able to say no to that. That is helpful. However, the fact that some children will have had sexual experiences or been abused is added almost as an afterthought in the bulk of the material—like shutting the stable door after the horse has bolted. The approach that is taken is that, although some children may not feel

comfortable talking about such things, it is still better to brainstorm.

**The Convener:** Thank you for your clear and comprehensive presentation. We will now consider what to do with the petition. You are free to stay and listen to the discussion among committee members.

Two alternative actions have been suggested. We have received comprehensive responses from the former Minister for Education, Europe and External Affairs, Jack McConnell, and from the current Minister for Education and Young People, Cathy Jamieson. Those responses set out in detail the Executive's position on the petition. If we feel that that position provides the safeguards that are necessary for children in Scottish schools, we should agree to take no further action. However, if we feel that Reverend Murdoch has today made a good case for further consideration of the matter, we should refer the petition to the Education, Culture and Sport Committee.

**Phil Gallie:** There are further alternatives. Some doubt has been cast over whether the McCabe committee's original reports have been lived up to. We could write to the minister, suggesting that we recall the McCabe committee to re-examine the matter and determine whether what has happened subsequently has been in line with its expectations.

Given the comments that have been made about the widespread use of the materials in some areas of Scotland but not in others, it would be worth while for the committee to write to each of the education authorities, asking them whether they are satisfied with the materials and whether they have implemented their contents to any great extent.

Dorothy-Grace Elder said that many MSPs have not seen the information that is being passed out to the education authorities. I suggest that we ask that all MSPs be furnished with that information, or be given the opportunity to access it. The information is difficult to reach, but it would be worth while if MSPs could reach it. That would be a reasonable request for the committee to make.

Finally, it would be worth while for us to pass the petition to the Education, Culture and Sport Committee, to get its views.

**Rhoda Grant:** I suggest that we contact the councils that have been mentioned and ask what parts of the materials they distribute to children. That would give us a clearer idea of whether there are concerns that we should pass to the Education, Culture and Sport Committee.

**The Convener:** I am not certain that we have a comprehensive list of the councils involved.

**Rhoda Grant:** I have taken a note of them.

**Rev Iain Murdoch:** I can give you a list.

**The Convener:** Fine, we are able to contact the councils concerned.

**Dorothy-Grace Elder:** I suggest that every MSP be written to and urged to study some of the material. We should also distribute a copy of the petitioner's submission and, in the interests of fairness, Jack McConnell's response. MSPs are more ignorant of this subject than anyone else.

Can we ask the Executive to define the reason for giving sex education in schools? The reason has always been to prevent early pregnancy and venereal disease. However, the material that we have before us goes far beyond that—it goes far beyond what can be seen on late-night television. In relation to the state's role in sex education, this wild stuff is totally unnecessary, to put it mildly. The situation is completely off balance. If we ask education authorities whether they dish out this material in classrooms, I am sure that they will say that they do not, although I do not know whether that response would be truthful. However, the problem relates to the influence that this material has on the minds of teachers, some of whom are young. That is more important than proving that some of this stuff was dished out in a classroom.

**Phil Gallie:** I am sorry to keep this discussion going for such a long time, but I want to support Dorothy-Grace Elder's point.

**The Convener:** We have spent nearly an hour on this petition, which is the first on a heavy agenda.

**Phil Gallie:** The point is extremely important. If the McCabe committee were reconvened, it could get to the truth of the matter that Dorothy-Grace Elder raises. We are told that parents should be involved in sex education, but we know that teachers will take differing approaches to what they present to the class. That is a good reason for the McCabe committee to re-examine how the system is working.

**The Convener:** Phil Gallie has suggested that we write to the Minister for Education and Young People, calling for the re-establishment of the McCabe committee before passing the petition to the Education, Culture and Sport Committee. However, I think that, if we pass the petition to the Education, Culture and Sport Committee, we should not carry out a parallel inquiry.

Rhoda Grant suggested that we contact all the councils, but that would be a matter for the committee that was conducting the investigation. The same point applies to Dorothy-Grace Elder's suggestion that we write to all MSPs. The Public Petitions Committee does not have the resources to do that—we have only 1.4 members of staff. It would be possible for us to make a copy of the

petition available through the Scottish Parliament information centre and direct MSPs to it on our home page.

**Dorothy-Grace Elder:** Could we e-mail MSPs to draw the petition to their attention?

**The Convener:** That would put an extra burden on people who are already hard pressed.

**Phil Gallie:** We could ask the minister to do that.

**The Convener:** If we passed the petition to the Education, Culture and Sport Committee, it would be for that committee rather than us to take such action. We can pass a copy of the *Official Report* of this meeting to the Education, Culture and Sport Committee to ensure that our concerns are taken into account.

Is it the committee's view that we should pass the petition to the Education, Culture and Sport Committee and ask it to consider the implications that arise from it? We could also ask that committee to clarify the official positions of the Church of Scotland and the Roman Catholic Church—the evidence that we have heard this morning does not make it clear to me whether the petition has the churches' backing.

**Phil Gallie:** I do not object to the petition being sent to the Education, Culture and Sport Committee, but I think that the Scottish Executive has a role to play. Ensuring that all MSPs are properly informed is not outwith the Executive's remit and it has a large bureaucracy to back it up.

Beyond that, I think that it would be fair for the committee to recommend that the Scottish Executive recall the McCabe committee. We have made similar recommendations in the past and I cannot see anything that would stop us from doing so again. I would like to propose that option.

**The Convener:** To be honest, if we were to pass the petition to the Education, Culture and Sport Committee, it would become that committee's petition. Therefore, it would be for that committee to act on the petition and to come to a decision about it. On the basis of the information that we have heard this morning, I do not think that I would be qualified to call on the Executive to recall the McCabe committee. We have not heard sufficient evidence, and I would like to hear the other points of view that we have not heard this morning. We cannot come to a conclusion on the basis of one side of the story—we would need to get the story from the other side as well. We cannot make snap decisions simply because doing so suits individual members of the committee. That is an important point.

**Phil Gallie:** I do not think that we would be making a snap decision. We have received letters from the previous Minister for Education, Europe

and External Affairs in which he said that McCabe is happy and that the Church of Scotland is happy. You said, convener, that we should ask the churches again.

**The Convener:** No.

**Phil Gallie:** I am saying that we should ask McCabe again. I do not think that there is anything contradictory in that.

**The Convener:** I am saying that—

**Phil Gallie:** I note that Helen Eadie seems to agree with you, but she did not have the benefit of listening to the whole debate or hearing the introductory remarks.

**The Convener:** It is not a question of who agrees with me. A majority of committee members will get their way, whatever I think. All the comments that have been made this morning—including your comments about the recall of the McCabe committee—will be drawn to the attention of the Education, Culture and Sport Committee when the petition is referred to that committee. It will be for that committee to take those comments into consideration as part of the evidence gathering that it will undertake. We simply do not have time at this stage to mount a full inquiry into the petition, which we would need to do before we could come to a conclusion on it.

**Phil Gallie:** I am not looking for a full inquiry. I am proposing that the committee should contact the Scottish Executive and ask for certain action to be taken. That would not put any burdens on to the committee—we would simply pass a letter to a minister, asking that minister to fulfil a request. If the minister said no, it would be for the Education, Culture and Sport Committee to respond. If the minister said, "Yes—that is a good idea," everyone would be happy, including the petitioners.

**The Convener:** Before we make such a request, we must consider the evidence and build a case for making that request. I do not think that we have heard evidence this morning to justify the committee making such a request of the Scottish Executive. That is why we should draw your comments to the attention of the Education, Culture and Sport Committee and ask that committee to deal with the petition, given that it is the subject committee with responsibility for this area.

**Phil Gallie:** I am sorry, convener, but I propose that we write to the minister, asking that the McCabe committee re-examine the situation.

**Dorothy-Grace Elder:** I second that.

**The Convener:** There will be a division.

**FOR**

Elder, Dorothy-Grace (Glasgow) (SNP)  
Gallie, Phil (South of Scotland) (Con)

**AGAINST**

Grant, Rhoda (Highlands and Islands) (Lab)  
 McAllion, John (Dundee East) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West)  
 (LD)

**ABSTENTIONS**

Eadie, Helen (Dunfermline East) (Lab)

**The Convener:** The result of the division is: For 2, Against 3, Abstentions 1. The proposal is therefore disagreed to.

Do members agree to pass the petition to the Education, Culture and Sport Committee?

**Members indicated agreement.**

**The Convener:** I thank the petitioners for attending the meeting.

### **Charitable Organisations (Regulation) (PE428)**

**The Convener:** The second new petition is PE428 from Mr Eddie Egan on behalf of Binny House, on the regulation of charitable organisations. At the outset, I apologise to the witnesses for the delay in reaching their petition. I know that some of the witnesses are not well, so it has been quite an ordeal for them to sit through the previous lengthy discussion. Bristow Muldoon is here as the local MSP.

I understand that the petitioners have made a special request to show a video before they make a presentation to the committee. We will begin with the video, following which Mr Egan will introduce the witnesses.

*Video evidence was shown.*

11:00

**The Convener:** Thank you. Perhaps Mr Egan would like to introduce his colleagues before making the presentation. You have three minutes, Mr Egan.

**Eddie Egan:** My colleagues are: Patsie McAdam, who is the mother of a service user at Binny House; Brian Clark who is also a service user at Binny House; and Wilma Campbell, who is the deputy matron of Binny House. I am a member of the action committee that is trying to ensure that Binny House stays open. The committee will know the local MSP, Bristow Muldoon.

The video that the committee has just seen is about people in Scotland who need help; helping those people is what the Scottish Parliament should be about. The big issue is about a service provider unilaterally announcing its intention to close Binny House. We are calling on the Scottish Parliament to consider regulations—I do not know the appropriate term; perhaps I should say rules or legislation—that would prevent any care provider

that is based anywhere in Britain from unilaterally deciding to close a facility that affects people in Scotland, such as the two individuals who addressed the committee in the video.

I would like to use our time by having Brian Clark—one of the service users at Binny House—address the committee. My views are almost irrelevant.

**Brian Clark:** I would like to thank the committee for letting me speak. I ask members to bear with me as I am not feeling too good this morning.

I have been receiving respite care—one week every two months—at Binny House for four and a half years. As my condition worsens, the strain on my wife becomes greater. When I go to Binny House, my wife can sit back and relax and know that she has seven days to herself, away from her 168-hour week. She can relax and recharge her batteries and be ready for the next eight or nine weeks in which she will have me every day of the week. If she is not actually caring for me, she is working on my behalf or is on call for me—it is constant.

I am concerned about the residents and staff of Binny House, whom I consider as family. The care that is provided is excellent and it is not only the nurses and carers who are involved. Everybody who works in Binny House—including the kitchen, maintenance and office staff—does so because they care. Even the cleaners are there because they care—they spend time with residents.

I make a plea for all parties concerned to get back round the table to stop the grim reaper from walking any further up the driveway. Nobody seems to be able to halt his progress. The closure of Binny House will mean the death of a community. The staff are so highly trained that once they have been dispersed throughout the system, another team that is as dedicated will never be found. I am very happy for the people of Marchmont House and for the people of Aberdeen, where a service is required. The east coast of Scotland is the area that is worst affected by multiple sclerosis. The Orkney Islands has the highest number of cases of MS—which used to be known as the Scottish disease—per head of population.

There is an urgent need for legislation. A service provider should give at least six months' notice of its intention to close a facility to allow all parties concerned to reach an agreed settlement that would allow places such as Binny House to stay open. In central Scotland, it is a fight to receive respite care and specialist respite care is almost non-existent.

My wife and I will be totally devastated when we reach the stage when I do not have respite care and my wife suffers a nervous breakdown. When

my wife is being looked after in hospital, a bed will be needed in the same hospital to look after me, because I cannot meet my needs on my own—I cannot look after myself. I thank the committee very much.

**The Convener:** Thanks very much, Brian. That was very moving.

**Eddie Egan:** I do not think that I need to add any more to what Brian has articulated on behalf of MS sufferers throughout central Scotland.

**Bristow Muldoon (Livingston) (Lab):** I will make a brief contribution. It should be stressed that although Binny House is situated in my constituency and I am the local member of the Scottish Parliament, the service that is provided there is a service to the whole of central Scotland, not just to my constituents. People from Lanarkshire, West Lothian and Fife receive care at Binny House, as does—which the convener might be interested to know—one person from Dundee. Binny House serves people throughout central Scotland and provides a specialist service that is aimed at people who suffer from a range of conditions including MS, Parkinson's disease and motor neurone disease. It provides a range of services from long-term care to the respite care that Brian Clark mentioned—Patsie McAdam's son Richard receives care there—and also provides palliative care to a number of individuals.

As my primary concern is the future of Binny House, my plea—which I made last week and which other people have already repeated to the committee—is for Sue Ryder Care to return to the table to negotiate on the continued provision of care at the centre. Furthermore, in a letter that was sent to MSPs last week, the MS Society clearly identified a shortage of such specialist care in Scotland.

That said, Brian Clark raised a broader issue that makes it appropriate for the committee to refer the petition to the Health and Community Care Committee. Specialist care resources must not be withdrawn at such short notice without any opportunity for people to influence the decision or to put alternative quality provision in place. The Parliament and the Health and Community Care Committee should examine how public authorities and charitable and voluntary organisations work together. The plug must not be pulled on such resources, because that leaves people in extreme anguish and with no clear idea about the continuing care that they will receive. Although I acknowledge that the Public Petitions Committee does not wish to get drawn into individual local issues around Scotland, there is a broader strategic issue that the Scottish Parliament should consider to ensure that such closures do not happen in future. In the meantime, I and many of the people who are present at today's meeting will

continue our campaign to persuade Sue Ryder Care to return to the table in order to resolve this individual issue.

**The Convener:** Thank you very much.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** For clarification, what is the best advice that you have received on the time scale for the closure?

**Eddie Egan:** Binny House will close on 28 February.

**John Farquhar Munro:** Have there been any suggestions about alternative provision or is it up to the individual service users of Binny House to arrange that for themselves?

**Eddie Egan:** There are for some service users alternatives such as older people's homes. For example, there is a home at Lasswade. People who are receiving palliative care will have to go either into Edinburgh or to St John's hospital at Howden.

**Bristow Muldoon:** The other point is that many of the alternatives that have been identified for the residents of Binny House are not of such a high quality or not as appropriate as the care that the residents currently receive. Although alternatives will undoubtedly be found, they will be less desirable than the current care provisions.

**Helen Eadie (Dunfermline East) (Lab):** With regard to meetings with the authorities that are responsible—particularly with the commissioners of care—the minister said in last week's debate that he hoped that there would be discussions between the commissioners of care in Lothian and representatives of Binny House. Has such a meeting taken place?

**Bristow Muldoon:** The difficulty is that only one side in the affair is willing to come to the table. The main commissioners of care are Lothian NHS Board and the local authorities in east central Scotland. The last meeting between the commissioners and the provider of care took place on—I think—2 November, at which the most up-to-date offer on resources was made. The provider of care, Sue Ryder Care, left the meeting without deciding on the issue one way or the other and issued a press release later that afternoon indicating that it intended to close the home. Since then, Lothian NHS Board and the public authorities have indicated clearly to Sue Ryder Care that they wish to continue negotiations. Indeed, as recently as last week, James Barbour—chief executive of Lothian NHS Board—wrote again to the chief executive of Sue Ryder Care to encourage him to return to the table. However, I am not aware that Sue Ryder Care has yet agreed to do so.

**Dorothy-Grace Elder:** Who owns Binny House?

Does Sue Ryder Care own it 100 per cent?

**Eddie Egan:** Yes.

**Dorothy-Grace Elder:** Do you deal with a Sue Ryder office in Scotland or in England?

**Eddie Egan:** We deal with an office in England.

11:15

**Dorothy-Grace Elder:** So there is at least a geographic distancing. I thank Mr Egan for coming today—he had to travel some distance in horrible weather. He expressed his case well.

This is the most extraordinary threatened closure of a social work institution that I have known. I understand from Bristow Muldoon's speech that the charity was offered £400,000 and more aid to bankroll it for the future. However, although the charity receives money for another home in Melrose, it refuses to accept the aid. We all know about the terrible shortage of respite care places. I have a 41-year-old constituent in the east end of Glasgow, who has severe multiple sclerosis and has been put in an old folk's home for a few months because an extension is not ready.

Although the situation with Binny House is utterly baffling, the petition is centred on the wider matter of not allowing charities to get away with such actions in future. However, the most urgent need is to save Binny House and, as Mr Egan rightly said, to prevent the break-up of the staff team. I have seen that happen before with state-funded projects—the team is magic, but when that family of people is broken up they never get back together and patients often go into unsuitable accommodation. The urgent need is to save Binny House and call the charity to account. I ask the convener whether we can call the Sue Ryder mob to account directly.

**The Convener:** You should ask the petitioner questions at this time.

**Dorothy-Grace Elder:** Does Mr Egan want the committee to call Sue Ryder Care to account?

**Eddie Egan:** I would be delighted if the committee did that.

**Dorothy-Grace Elder:** We must act quickly because the recess is approaching.

**Bristow Muldoon:** The reason why the petition is more broadly framed is to encourage the Public Petitions Committee to act on it. I know that the committee wants to consider strategic rather than individual issues. Our undoubted priority is to save Binny House. Any assistance that the committee can give in raising the profile of the issue would be much appreciated.

The question of why Sue Ryder Care took the decision to close Binny House when extra money

was offered is important. The organisation's latest statement of accounts raised concerns because it showed that its costs rose by about £3 million in the past year.

**Dorothy-Grace Elder:** Was that in the United Kingdom?

**Bristow Muldoon:** Yes. The costs rose from about £26 million to about £29 million. I am concerned because many of the cost increases were not connected to the provision of extra care places or to the costs of care. I am pretty sure that staff wages did not rise by 10 per cent last year. The areas in which expenditure increased are management, advertising and promotion, for example. We must ask how the organisation uses its resources and whether it is appropriate that specialist care homes such as Binny House pay the price for those increased costs.

**Dorothy-Grace Elder:** If he has not done so, I suggest that Bristow Muldoon contact some of his Westminster colleagues. The organisation is trying to do something that is utterly deplorable in Scotland and Bristow's colleagues might not know about it. The founder of the organisation, Sue Ryder, who died not too long ago, would be horrified. Might the local authority or health authorities get together to buy Binny House and take it over?

**Bristow Muldoon:** We have asked that question. For that to happen, Sue Ryder Care must be willing to sell Binny House. The difficulty is that nobody knows what Sue Ryder Care's intentions are for the home—people are suspicious that the organisation intends to sell it for its capital value. A difficulty might arise if the organisation wanted to sell Binny House on the open market for development.

**Dorothy-Grace Elder:** Does the house have grounds?

**Bristow Muldoon:** It is an attractive location and I imagine that its capital value is significant.

**Dorothy-Grace Elder:** Roughly how many acres of land does it have?

**Eddie Egan:** I am not good at such things, but the house has many acres. The drive is about half a mile long.

**Dorothy-Grace Elder:** We thoroughly disapprove of such sales when hospital boards do them—more disapproval should be heaped on the head of a charity.

**The Convener:** If there are no other questions, I have a follow-up question to the last point that was made by Dorothy-Grace Elder. I understand that the latest funding package offer that was made to Sue Ryder Care would have made Binny House the second-best funded of their 26 centres

throughout Britain. Is that right?

**Eddie Egan:** That is correct.

**The Convener:** So there must be another, hidden agenda behind closing down the home. The matter is not just the funding package that is on offer. Could it be that we are seeing asset stripping and that Sue Ryder Care has a valuable property from which it can get a huge capital receipt?

**Bristow Muldoon:** That is our fear.

**The Convener:** Is that why the organisation is closing the home? It has nothing to do with the care or funding that is made available by local commissioners.

**Bristow Muldoon:** The funding that was offered to Binny House by the public authorities would—depending upon whose figures you use—have covered between 84 and 93 per cent of the running costs of the home. That seems to be a high proportion and compares favourably with many of Sue Ryder Care's remaining homes.

**The Convener:** Thank you for that excellent presentation. The petitioners are free to stay to listen to the discussion about what to do with the petition.

The petition is framed in such a way that it is asking for legislative change to ensure future consultation by the likes of Sue Ryder Care. Such an issue should normally be passed to the Health and Community Care Committee for consideration. However, that would be of no use to Binny House because it will be closed by 28 February. It has therefore been suggested that, as a first stage, we write to the Executive asking for an urgent response on the issues that are raised by the petition.

At the same time, we should write to Sue Ryder Care and ask for its response to the petition. We should ask for both responses to be available for the next meeting of the Public Petitions Committee on 15 January. That might be the best way forward for the first stage.

**Rhoda Grant:** I agree. However, in considering the wider issue, we could still refer the petition to the Health and Community Care Committee. That committee is currently considering legislation and it might be appropriate that the law be changed to ensure that consultation takes place in order to prevent the same thing from happening to other groups. All the same, I understand why we must do something now to protect the people who are affected by the closure.

**The Convener:** We could certainly send the petition to the Health and Community Care Committee for information until we get a response from the Executive. I know that the Health and

Community Care Committee will have its final meeting of 2001 tomorrow so, if we pass the petition to that committee, nothing will happen until after Christmas, whereas if we take action now, something might happen. We will certainly pass the petition to the Health and Community Care Committee so that it can take it into consideration as part of its deliberations on future consultation.

**Helen Eadie:** I do not disagree with what is being proposed. However, given that the issue is so urgent, could we consider taking the more unusual step of asking the convener and Bristow Muldoon to seek a meeting with representatives of Sue Ryder Care? The issue is so urgent and vital for the people in Binny House that I do not think that we can wait until January or February for progress. Perhaps the matter requires personal intervention by the convener.

**The Convener:** I am not sure that I am the best-qualified person. We can certainly make that offer to Sue Ryder Care when we meet its representatives. We want an urgent response from Sue Ryder Care and I would be prepared to meet representatives and Bristow Muldoon.

**Bristow Muldoon:** I advise the committee that a number of appeals are going to Sue Ryder Care urging it to come back to the table. When Malcolm Chisholm was Deputy Minister for Health and Community Care—shortly before his elevation to Minister for Health and Community Care—he wrote to encourage Sue Ryder Care to come back to the table. I have written to the organisation, as has Lothian NHS Board. Anything else from the committee would be helpful, but a number of people are putting pressure on the organisation to come back to the table.

**The Convener:** In our letter to Sue Ryder Care, we will certainly include the committee's view that the organisation should, as a matter of urgency, come back to the table with the Lothian health commissioners to discuss saving Binny House. That is about as much as we can do, especially if ministers are also writing to Sue Ryder Care. It would be more appropriate for Sue Ryder Care to meet ministers than to meet me.

**Dorothy-Grace Elder:** Has Sue Ryder Care responded?

**Bristow Muldoon:** The organisation has written back to Lothian NHS Board. It has not offered to come back to the table, but has written in response to letters from Brian Cavanagh—the chair of Lothian NHS Board—and from me. There might be slight movement because that is the first time that Sue Ryder Care has responded since November. Just last week a letter was sent to James Barbour of Lothian NHS Board.

**Dorothy-Grace Elder:** That is disgraceful. The whole thing absolutely stinks.



**The Convener:** Is it agreed that the committee write to the Scottish Executive and to Sue Ryder Care to ask for their urgent responses to the petition before our next meeting on 15 January? Is it also agreed that we urge them to get back round the table with the Lothian NHS Board commissioners to discuss how to save Binny House? In the interim, we will pass on the petition to the Health and Community Care Committee for its information while we await answers from the bodies that have been referred to.

**Members indicated agreement.**

**The Convener:** I thank the petitioners for their attendance this morning, which was helpful.

### Multiple Sclerosis (PE431)

**The Convener:** The third new petition is PE431, from Mark Hazelwood on behalf of MS Society Scotland. I do not know exactly how many signatures the petition has, but it has more than 30,000. The petition is about the availability of beta interferon for multiple sclerosis sufferers. Before dealing with the petition, we will wait for the previous petitioners to vacate their chairs and the new petitioners to take their places.

Good morning and thank you for your patience. We have reached only the third petition, although we are an hour and a half into the meeting. The same rules apply to everyone. You get three minutes to make a presentation. Then the meeting is open to questions from committee members. You may now introduce your fellow witnesses.

**Mark Hazelwood (MS Society Scotland):** During the past six weeks, in excess of 44,000 people have signed the petition. I have brought the latest couple of thousand signatures, which have come in since we handed across the petition 10 days ago.

The petition, as you know, calls on the Scottish Parliament to ensure that patients who might benefit from beta interferon and glatiramer acetate—people with MS—should receive them as soon as logistically possible. I do not have MS but I am delighted to be joined this morning by Jackie Doyle, who has MS but is being denied access to beta interferon even though her neurologist has identified her as somebody who might benefit from it, and by Wendy Harris, who also has MS but who has been receiving beta interferon since February. They are here to answer your questions—after I finish my three minutes—in a way that I could not possibly do. During my three minutes I want to touch on two aspects of this complex situation. The first is on the effectiveness of beta interferon and glatiramer acetate, which are similar drugs. The second aspect is the economics of their provision.

First, what do we know about how well those drugs work? Beta interferon and glatiramer acetate have been through double-blind, placebo-controlled randomised trials. That is the gold star test for the effectiveness of medications. When we look at the results of that trial—actually, there were at least three trials—we see that the drugs reduce by a third, on average, the number of attacks or relapses that MS sufferers have. An attack or a relapse can mean paralysis or hospitalisation, disruption to one's vision and, frequently, great pain.

Multiple sclerosis literally means “many scars”, because in MS the body's immune system attacks the brain cells. The trials showed that the drugs can reduce significantly the volume of brain scarring. The trials also showed that the medicines can delay the onset of disability.

People with MS are well aware that beta interferon and glatiramer acetate are not miracle cures, but they know the big difference that those drugs can make. They are also aware that if they lived in other parts of Europe or in North America they would routinely be prescribed those medications as the best available.

What about the economics and the costs of the medicines? Beta interferon costs around £7,000 per patient per year. The Executive estimates that it would cost around £7 million a year to make those medications available to everybody in Scotland who might benefit from them. To put that in context, that figure is about 0.1 per cent of what the Scottish health service will spend this year. That is a significant but not absolutely unusual price tag.

We must think about the costs of not treating MS. We have to think about the benefits that people who have given up work will claim from the state. We have to think about the costs of putting ramps and lifts into people's houses as they become increasingly disabled. We have to think about the informal cost to carers, who perhaps have to give up their employment to look after their daughter, partner or son.

In summary, we have a drug whose beneficial impact on individuals has been proven by the most rigorous scientific examination. That drug's price tag to the NHS is likely to be offset significantly by savings to society in a wider context. In the UK, the drug has been licensed for use for more than six years, but most Scots who would potentially benefit from the drug do not have access to it.

11:30

As the delay in making the drug available continues, we know that a significant number of people's MS will have progressed and their condition will have deteriorated to the extent that

they are no longer eligible to benefit from beta interferon and glatiramer acetate. They will have missed forever their chance to benefit. That is why 44,000 people have signed the petition to ask the Scottish Parliament to do what it can to ensure that that injustice is ended as soon as is logistically possible.

**Phil Gallie:** I remember being involved with the introduction of beta interferon in 1996. It impressed me then very much that certain individuals could benefit, but I accepted that not everyone could benefit. I was happy to find out then that Ayrshire and Arran Health Board signed up for the drug fairly quickly. When I checked recently, the health board advised me that it was still prepared to prescribe beta interferon where it fits the scene.

How many health authorities in Scotland take that same view? Is there postcode prescribing?

**Mark Hazelwood:** There is marked regional variation. Patients are able to get beta interferon in Grampian and, probably, in Fife and Ayrshire and Arran. Elsewhere, new patients are unlikely to be able to get beta interferon.

A change since 1996 has been that, after the announcement of the work of the Health Technology Board for Scotland and that of the National Institute for Clinical Excellence south of the border, many of the health boards that were prescribing beta interferon have decided to stop prescribing it pending the ruling of those quangos. On average, it is more difficult to get beta interferon now than it was two or three years ago.

**Phil Gallie:** You rightly identify that prescribing the drugs has a high cost, but there are savings to be made. Has anybody done research on the financial savings that prescribing could produce, quite apart from alleviating the misery of those who could but do not benefit?

**Mark Hazelwood:** Perhaps the most authoritative document on multiple sclerosis in Scotland was produced by the Scottish Needs Assessment Programme just over a year ago. The programme assessed the societal costs of multiple sclerosis, which are difficult to quantify, and came up with a figure in the order of £120 million a year.

**Rhoda Grant:** I understand that there will be large-scale tests south of the border, which will mean that most people who could benefit from beta interferon will have access to it. Do you have information on whether that programme of tests will be carried out in Scotland?

**Mark Hazelwood:** The society is aware of the discussions that have taken place and that, I understand, continue to take place between the Department of Health in England and some of the drug manufacturers. Those discussions came

about in part as a result of the proposal of testing as a way forward that one of my colleagues south of the border put to the department.

At this stage we do not have any conclusion to those discussions. We are not clear about what drugs might be available, when such an exercise might start and what its duration might be. We do not have a clear picture of the relationship between that exercise and the situation in Scotland. It is an encouraging development, but there is an awful lot of devil in the detail. We are obviously concerned because of the possible delay in establishing such a complicated exercise.

**Dorothy-Grace Elder:** I declare an interest, because I am honorary president of the Glasgow north-east multiple sclerosis society. Glasgow is one of the areas where there is no prescribing of beta interferon, which is outrageous. I visited someone in Tayside—beta interferon was prescribed there, although I do not know whether it still is—who had received beta interferon treatment.

For years I have asked people, including the drug companies, what the true cost will be when there is larger scale prescribing. Would the figures not come down? Governments have consistently used the figure of £10,000 a year for cases, but now the figure seems to be £7,000. It is cheap at the price, because the treatment is usually for younger people who have MS. Mothers will write to you; they have written to me. They want to stay on their feet to keep their kids going. What is the figure of £7,000 per patient based on? Is it based on an average or on the relatively small number of MS patients for whom beta interferon is suitable?

**Mark Hazelwood:** The figure of £10,000 was used for a while. That was based on the manufacturers' prices. The £7,000 figure reflects a change in those prices. One of the manufacturers has brought the price down a little bit and glatiramer acetate—a similar product that I mentioned, which was launched more recently—was launched at about that price.

**Dorothy-Grace Elder:** You mentioned the figure of £7 million that was given in the SNAP report. I cannot recall whether that was for only the limited number of patients who would be suitable for beta interferon. Was that based on the limited estimated number?

**Mark Hazelwood:** I clarify that beta interferon is not suitable for all people with MS. It is suitable for those with MS at a relatively early stage, before severe disability sets in, which it does not do in all cases. When we consider other countries, around 20 per cent of the total number of people with MS have the potential to benefit from these drugs. In Scotland, about 2,000 people would have the potential to benefit. There is now quite a few

years' experience of its use in clinical practice. Some patients do not respond so well and some cannot tolerate the side effects. Although up to 20 per cent might benefit, the number of patients who receive the medication will be lower than that.

**Dorothy-Grace Elder:** Is it not the case that some people currently pay privately for beta interferon, which they obtain from the States? They cannot afford it and somehow raise funds themselves. Are there a number of cases like that?

**Mark Hazelwood:** Yes. People try to pay for it themselves. That is another impact of the moving time scales for a decision on the matter. Some people embarked on funding it themselves last year, in the expectation that a decision would be made prior to Christmas last year. They will have had to try to continue funding it themselves or will have had to stop taking the medication because of the further delay that has taken place this year.

**Helen Eadie:** I ask your colleagues whether they could describe the difference between having beta interferon and not having it.

**Wendy Harris:** I had five relapses last year and was really ill. This year, I have had one relapse and I am going back to work in January. The difference is amazing. I am now fit, whereas last year I was constantly ill. It has made a massive difference to my life.

**Jackie Doyle:** I do not take the drug at all. Greater Glasgow Health Board indicated that it will not prescribe to anyone. In November 2000, my neurologist diagnosed that I was suitable for treatment. However, in June 2001, I found that my details and those of a number of other people had simply been put in a filing cabinet and forgotten. I wrote to the health board about that. The list has now been forwarded to the health board and there has been correspondence.

I have a career as a solicitor, so I have advantages over some people on the list. I am articulate, educated and can work out where my legal rights have been violated.

The matter is frustrating. I have had five—possibly six—relapses this year. Some have been mild, but some have been severe. In April, I could not walk. I collapsed while getting out of bed. One morning, I tried to wash my hair and felt the room spinning. I had to hold on to the bath and vomited in the toilet. I had to shout to someone for help. I was helped into bed and had to be looked after for 24 hours a day. I could not eat or drink without help or get to the bathroom on my own. If I wanted to wash, a chair had to be brought to the sink and I had to be put in it. I needed help with brushing my teeth—I could not hold a toothbrush. At that time, I lived in a property with stairs, so I had to be carried upstairs. If I wanted something to eat, I

would possibly have to be carried downstairs. That lasted for about a fortnight. There were relapses in March and April.

I am in much better health this morning, as members can see. I hold down a full-time job—I am a qualified solicitor. I am educated and have my own firm. I employ six people, whose lives are affected by what I do. I do not want to rely on the state or force other people to rely on it. I employ people and keep them in work.

Wendy Harris would have been in a similar situation. There is a sense of total helplessness. Not getting the drug leads to frustration and panic. What will happen to me? Will this be my final relapse? Will I be like this for the rest of my life? I want to contribute to society and want the drug so that I can continue to contribute.

**Phil Gallie:** I hesitate to return to finance after that explanation. You have talked about the advantages of prescribing. There can be advantages for the nation. I want to ask Mark Hazelwood about the £7,000 per year prescription charges. Is there a difference between charges in the United Kingdom and those in the United States? I understand that beta interferon is far cheaper in the US—that might be the result of its later introduction to the UK. Is there a difference?

**Mark Hazelwood:** There is less of a difference than some headlines suggest. We handle quite a lot of inquiries from people who have heard that there is a difference. My colleagues carried out work that considered, for example, the costs for people with private funding who are desperately trying to make their money stretch by buying the drug in the US and bringing it over. There are differences in different markets, but those are not as enormous as the press has suggested.

One influencing factor is the pharmaceutical price regulation structure in the UK. The structure is extremely complicated and technical but, basically, the Department of Health regulates the overall profitability of an individual company rather than considering the profit margin on an individual product. That is how pharmaceutical pricing is regulated in the UK. The fact that the UK is sometimes used as a benchmark market for setting prices elsewhere also has an influence.

**The Convener:** I understand that the Executive leaves whether to prescribe beta interferon to local health boards' discretion, which explains the difference between Greater Glasgow NHS Board's area and your health board area—which is?

**Wendy Harris:** Fife.

**The Convener:** In Tayside, the number of people who can be prescribed beta interferon is limited to eight in one year. After that, nobody gets it.

**Jackie Doyle:** In Glasgow, no one receives beta interferon. I have a letter from James Miller of South Glasgow University Hospitals NHS Trust to Harry Burns, the director of public health at Greater Glasgow Health Board. In the letter, James Miller says that he has instructed west of Scotland health boards not to deem anyone suitable for treatment with the drug until funding is identified. That puts the cart before the horse. Funding cannot be identified if a person is unsuitable, but Glasgow is being instructed not to deem anyone suitable before funding is identified. That is even worse than a blanket refusal—that is an instruction not to prescribe.

**The Convener:** Do you argue that health boards that decide not to prescribe do so purely because of funding?

**Jackie Doyle:** Yes.

**The Convener:** The Executive has referred the question of the cost-effectiveness of beta interferon to the National Institute for Clinical Excellence, which is likely to report in the near future. The Health Technology Board for Scotland will comment on that report. How likely are they to recommend that beta interferon should be prescribed?

11:45

**Mark Hazelwood:** The Minister for Health and Community Care first referred the beta interferon issue to the Health Technology Board in December 1999. We are approaching the second anniversary of that referral. The Health Technology Board did not exist until April 2000. One reason why we ask for the drug to be made available immediately is the long history of delay.

NICE has produced its final appraisal determination, which says that the drug should not be available on the NHS. That determination was the subject of an appeal at the beginning of last week. England and Wales await the outcome of that appeal.

The Health Technology Board has said that it will not begin its work until NICE publishes its guidance, which it will do once the appeal process has been exhausted. One cannot prejudge the outcome of the appeal at NICE, but the signs are not encouraging.

**The Convener:** Who is the appeal to? Is it made through the courts?

**Mark Hazelwood:** The appeal is to an appeal panel that is convened by NICE. I think that the chair of the appeal panel is the chair of either NICE or the original appraisals committee that worked on beta interferon.

**The Convener:** So the chair would have to find against their own conclusion.

I thank you for attending and for the clear way in which you supported your petition. You are free to stay to listen to our discussion about what to do with the petition.

The recommendation refers to an earlier petition—PE223—which went along similar lines to PE431 and was referred to the Health and Community Care Committee. We have been in touch with that committee, which is happy for PE431 to be passed on to it. That committee will link PE431 to PE223. The recommendation is that we refer petition PE431 to the Health and Community Care Committee for further consideration, particularly on the issues that have been raised, which should be brought to the attention of the Executive or of the Health Technology Board for Scotland.

**Dorothy-Grace Elder:** I did not catch who the letter to which Jackie Doyle referred was from.

**Jackie Doyle:** It was from James Miller, the divisional general manager at South Glasgow University Hospitals NHS Trust.

**Dorothy-Grace Elder:** I suggest that you take that letter straight to the press.

**The Convener:** That is entirely a matter for the petitioner.

**Dorothy-Grace Elder:** That is the only way. The letter is an absolute disgrace. I also suggest that we write to this Miller character. Can we do that?

**The Convener:** We cannot do that if we refer the petition to the Health and Community Care Committee.

**Dorothy-Grace Elder:** You know that the Health and Community Care Committee does not have time to do everything.

**The Convener:** It is up to you and me, as members of the Health and Community Care Committee, to ensure that the issue is chased up when it is referred to that committee.

If we refer a petition to another committee, we cannot carry on dealing with it—the petition becomes that committee's property. That is in the standing orders of the Parliament—there is nothing we can do about it until the standing orders are changed to give us more powers.

**Rhoda Grant:** Could we ask the petitioner for a copy of the letter? We could attach it to the petition when it goes to the Health and Community Care Committee.

**The Convener:** Absolutely. If the petitioner can leave a copy of the letter with the clerk we will ensure that it is passed on to the Health and Community Care Committee as part of this morning's evidence.

**Dorothy-Grace Elder:** What about the strange NICE set-up, where it investigates itself? Can we not write to NICE?

**The Convener:** The same principle applies again. Once we pass a petition on to a committee, the petition is its property and it is for it to pursue those issues. The operation of NICE and the Health Technology Board is a matter for the Health and Community Care Committee and is something that that committee should be addressing in any case.

**Phil Gallie:** Whether we like it or not we are talking about financial prescribing. That is the major factor. A strong argument has come across about the cost to the community, which is estimated at £120 million, compared to the prescription cost of £7 million. I would like to highlight that as a factor that has been raised in today's discussion.

**The Convener:** We will certainly highlight that when we pass the petition on to the Health and Community Care Committee.

**Dorothy-Grace Elder:** The HTBS was trying to impress us and justify its existence with a presentation about a week ago.

**The Convener:** Is it agreed that we pass the petition to the Health and Community Care Committee?

**Members indicated agreement.**

### **Social Services Policies (PE432)**

**The Convener:** PE432, from Mr William McCormack, is about independent appeals and review panels. You have three minutes to make a presentation, then it is open to questions from committee members.

**William McCormack (Dumfries Welfare Rights):** I will not take three minutes, as I feel that this petition is probably better dealt with in questions and answers.

The charging policy in Dumfries and Galloway was rushed through by Dumfries and Galloway Council without any consultation with service users. The people of the area are paying the price. Thousands of hours of home care have been lost by service users who can no longer afford to pay the charges. We have taken various appeals to the independent panel, which can only recommend back to the very committee that authorised the original policy. On many occasions the panel has come down in our favour. We feel that we have won an appeal, but when it goes back to committee, the committee ignores what has been recommended. We do not see that as fair.

We have as clients a disabled person with a

working partner who are living below income support levels. We also have a couple who are on income support and were assessed as being able to pay more than £80 a week towards their care charges. That is just not right. We took that couple's case to appeal and were before the panel for five hours. We used various court cases—from England, admittedly—that proved that the policy was probably illegal. The council got its in-house solicitor into the appeal. We objected to that, but in all fairness the solicitor came down on our side and agreed that the policy was probably illegal and needed to be revised. The case went back to committee with that recommendation and was again ignored. That is the stage that we are at today, which has resulted in frustration. We feel that we have exhausted every available avenue.

**The Convener:** Thank you. Do members have any questions?

**Helen Eadie:** I note that the accompanying document explains that many of the individuals concerned are being refused access to the appeals process by senior managers in the social work department. Are people actually being denied access to the appeals process, or is it simply the case that the decision on the appeal is not the one that they hoped for?

**William McCormack:** People are being denied access to the appeals process. One of our clients was assessed as being able to pay about £32 a week for what was, I think, about eight hours of home care each week. When he received the bill for £32, he immediately stopped his care. He said, "Take them out. I'm no paying it." That service user has lost about six stones, as he no longer has carers to come in and make his meals. His case has been highlighted by the local press and television.

When we appealed on his behalf, we were told that because he was no longer a service user he could not access the independent appeals panel. The fact that he had stopped his care because of the high charges was not taken into account. The decision was not made by the panel but by a manager. We have asked the social work department to put that service user's case to the independent panel to let the chairman decide. That individual has been denied care for over a year.

**Helen Eadie:** Have you taken legal advice on whether the denial of access to the appeals process is competent?

**William McCormack:** Yes. The guy was offered legal aid by the legal aid board. The advocate said that there is a strong case but a high cost would be involved because the case would affect so many people. The solicitor said that the on-going cost would be a problem.

**Rhoda Grant:** I want to ask for clarification. If someone is assessed as having to pay a certain amount towards their care and, because they cannot afford to pay that amount, the care is withdrawn, is it the case that the decision on the amount of their contribution cannot be appealed? Is that the problem in a nutshell?

**William McCormack:** The individual that I mentioned chose to withdraw the care because of the charge.

**Rhoda Grant:** Could he not afford to pay for it?

**William McCormack:** Whether or not he could afford to pay, he was assessed as being able to pay and chose not to pay. The carers were withdrawn. As he needed the care, we told him to keep the carers in place and not to pay, which was the best advice that we could offer him. Rather than take the carers away—which would endanger his life—we advised him to leave the carers in place but not to pay the charge. However, he is not that kind of guy. As he is quite elderly and did not want debt letters, he withdrew the care.

**The Convener:** The papers that you made available to the committee refer to the fact that Russell Brown MP and Elaine Murray MSP have complained to the council about the procedure. Has that had no effect at all?

**William McCormack:** It has had no effect that we can see.

**The Convener:** Has public pressure been put on the council locally?

**William McCormack:** There has been a lot of pressure from the voluntary sector, which has been up in arms, especially over the way in which the policy was introduced without prior consultation.

Until 1999, there was a charging policy under which very few people paid and which looked at individuals, not couples. The maximum charge was £26. Overnight, the new policy appeared from nowhere. The voluntary sector was hounded by clients asking about the charges. We first heard of the policy after it went live in October 1999, when it was applied to new clients. In January 2000, it went live for existing clients.

The first consultation on the charging policy took place in November 1999. Even at that early stage, the policy had changed from what had been recommended at committee. Committee had recommended that income support applicable amounts should be used as a disregard, but that has never happened. The figure was picked out of the sky. The level was set at £101 to begin with, but I do not know where that figure came from. The level was then increased to £111 for a single person. The level for a couple was set at £139 and was later increased to £160.

**The Convener:** You also mentioned legal action against the council. Is the council acting within its legal powers by introducing such a system? Is there a question about whether the council has the powers to do that?

**William McCormack:** Yes, there is a question about the policy. The council is allowed to have a charging policy, but it is debatable whether the council is allowed to charge couples. That issue is open to legal challenge. Having checked this morning, I know that an appeal last week on the couples issue is now at judicial review. In the case of the disabled couple mentioned in item 6 of the supporting documents that we supplied to the committee, only one partner—the wife—is a service user. The partner receives no services from the council, but his disability benefits, which pay for his personal care, are being included despite that fact.

To return to item 6 of the support information, the high-rate care component of disability living allowance applies to the disabled partner who receives care and is included within the means test. I know that the issue is benefit-related, so it might be difficult for the committee to consider, but the high-rate care pays for both day care and night care, whereas the middle-rate care pays for either day care or night care.

The means test covers the full amount, which is £55.30 per week. We argued at appeal that that was illegal, and were backed up by the outcome of a court case in England, which said that it was illegal. No night-time care was being provided, so it was only reasonable that the middle-rate care, which was £37, was instead included for the means test. The panel agreed with us, and the council's social services committee was told to review the policy, which was possibly illegal. Once again, that advice was ignored.

12:00

**The Convener:** Is an independent review panel such as that set up by Dumfries and Galloway Council, under its powers, common throughout all local authorities in Scotland?

**William McCormack:** Yes, I believe that it is.

**The Convener:** Do local authority committees ignore the advice of such panels throughout Scotland, or do they listen to them?

**William McCormack:** I do not know.

**The Convener:** That is something that we need to know, as this may be a wider issue of relevance throughout Scotland.

**William McCormack:** What panels give are only recommendations, and the answer that I have received has been, "Councillors make policy, not

an independent panel." Our argument was to ask, "What's the point in having an independent panel if it cannae correct illegal policy?" I suspect that ignoring advice from panels is a widespread phenomenon.

**The Convener:** Councils indeed make policy, but surely there must be some requirement on them to carry out adequate consultation. There does not seem to have been any in this case.

**William McCormack:** There was no consultation. We produced a document at a meeting in November: "Good Practice Guide to Consultation in Dumfries And Galloway", dated 1998. Clearly, the council's representatives had not followed it, if indeed they had heard of it. If the policy had been thought out and worked out, that would have benefited specialists such as me. Such a policy would have generated a lot of money with very little upset or hassle.

We believe that the council has lost 20 per cent of service users and thousands of hours of home care. Meals on wheels services have been reduced by a third. All that stems from the charging policy. If the policy was intended to generate an income for Dumfries and Galloway Council, good on them. The council has done a very good job—unfortunately, at a very high cost.

Thank you, Mr McCormack. You are free to stay and listen to our discussion about what to do with the petition. Clearly, there is something badly wrong about the council's policy down in Dumfries and Galloway. It is suggested that, initially, we copy the petition to the Executive and to Dumfries and Galloway Council, seeking their comments on the issues raised by Mr McCormack. Once we have received those replies, it is recommended that we act on the petition further. Is that agreed?

**Members indicated agreement.**

**The Convener:** I thank Mr McCormack again for attending.

### **Foot-and-mouth Disease (Pyre Ash) (PE429)**

**The Convener:** We are shifting the order in which we are considering the petitions before us, as Adam Ingram has arrived to speak to PE429, which is from Councillor Julie Faulds, about the dumping of foot-and-mouth pyre ash. The petitioners are calling on the Parliament to take the necessary

"steps to urge the Scottish executive to:

- a) Initiate a moratorium on further dumping of ash until all options for safe disposal of ash are reviewed
- b) Ensure best practice as outlined in SEPA's National Waste Strategy be adopted for the disposal of the ash
- c) Ensure, in particular, that the proximity principle

applies in that the ash should be disposed of as close as possible to the sites where it has been generated".

Adam Ingram has come along to speak in support of the petition because Councillor Faulds could not make it.

**Mr Adam Ingram (South of Scotland) (SNP):** It has been a very interesting morning. The committee deals with a lot of serious and sensitive issues, and PE429 falls into that category.

There has been a serious problem about the disposal of the pyre ash in two regards. First, there has been an apparent breach of best environmental practice. In particular, the proximity principle obtains, in the sense that ash or any waste is supposed to be disposed of on or close to the site from which it arises. In the situation that we are considering, the ash from carcasses incinerated in Dumfries and Galloway and the Borders has been disposed of in East Ayrshire, which was not an infected area during the foot-and-mouth outbreak.

The ministers have indicated that they did not have time to build a suitable disposal site in Dumfries and Galloway and that they took advice from the Scottish Environment Protection Agency on the issue. However, I have a statement from SEPA that indicates that it had informed the Executive that it identified 11 sites at the outset of the foot-and-mouth outbreak that were suitable for the disposal of waste arising from the outbreak. SEPA points out that the Scottish Executive developed a new site at Birkshaw forest for the burial of carcasses of animals. Secondly, decisions on which of the sites were to be used for the disposal of ash from incinerated animal carcasses were taken by the Scottish Executive. There is a question mark over whether the decisions followed best environmental practice.

Another aspect of equal, if not greater, concern is that there was little or no attempt to seek consent from the local communities in the area where the material was to be dumped. There was no prior public consultation. When there was consultation with the council, the council debated the issue and refused to allow the ash to be dumped in East Ayrshire. Despite that, the ministers set out their stall to impose the decision on the unwilling public of East Ayrshire. A couple of weeks ago, the transport of the material from Dumfries and Galloway to the Garlaff landfill site began. There was an extremely heavy police presence on the first day of that operation. A couple of hundred protesters were pushed aside to allow the material to come in.

Answers are required of ministers in taking such decisions. We have not been able to bring a minister to account so far for the decisions to dump at Garlaff and to override public opinion and

the democratic decision of the local authority. I urge the committee to respond positively to the requests made by the petitioners. I do not know what powers the committee has in respect of the proposed moratorium. However, it would be useful if the committee could strongly suggest that to the minister.

**Phil Gallie:** I congratulate Adam Ingram on making such a succinct case. Everything that he has said can be confirmed locally. One issue that was not picked up on was BSE. There is a marginal suspicion that BSE could be transmitted through the transportation of the ash. That causes anxiety not only for the people at the dump, but for all those living along the roads from Dumfries and Galloway.

I am very surprised that the Executive went against the wishes of the council. The council took an all-party decision to oppose it. It is slightly disappointing that the Executive has been so insistent without giving the absolute guarantees that would have been appropriate. Would Adam Ingram like to say something about the BSE risk and the overturning of the council's verdict?

**Mr Ingram:** The farming community across Ayrshire is extremely upset. Farmers sacrificed a great deal to keep foot-and-mouth disease out of Ayrshire in the first place. They responded to all restrictions that the Executive placed on them and they agreed with the Executive that no possibility of infection across borders should be allowed. We now find ourselves in the final act of the outbreak—getting rid of the waste—but the Executive is not practising what it preached during the course of the outbreak. As I say, the farming community is extremely upset.

There is a risk of BSE prions being in the ash because the burning of the animals did not reach 1,000 deg C, which would have destroyed the prions. The farmers argue that, to get rid of the risk, the ash should be incinerated again at a temperature of 1,000 deg C. That would also reduce the amount that would have to be dumped.

**Phil Gallie:** Will you confirm that when the Executive took its decision, it was against the wishes of the site operator, who was reluctant to take the ash?

**Mr Ingram:** The site operator said that he did not wish to take the ash if the local authority was against it. Obviously, the site operator has a major contract with local authorities in the area.

**Dorothy-Grace Elder:** This is part of a wider and very serious issue in the aftermath of foot-and-mouth disease and BSE. Adam Ingram may be able to confirm that, in Glasgow, the situation with ash relates not to foot-and-mouth carcasses but entirely to cattle at official high risk of BSE. Under the BSE surveillance scheme, they are

fallen stock. Ash from a local incinerator is to be imposed upon Carntyne in the east end, against the wishes of the council. Ash from cattle that were burned in that incinerator is to be taken to Paterson's dump, within the Glasgow boundary. Anything can be dumped on the east end, or so people seem to think. However, we are vigorously opposing these moves. We petitioned the European Parliament earlier this week.

Is Adam Ingram also considering petitioning the European Parliament? All these issues are interlinked. BSE is a side issue—although a dreadful one—as regards this petition, but it is central for us in Glasgow. I should add that the furnaces in Glasgow also have temperatures of only 850 deg C and that the furnace that I referred to has been temporarily closed by SEPA. However, no action taken against what is happening is strong enough. The Intervention Board in England is imposing these measures on us and the Scottish Executive is going along with it. The whole situation must be investigated.

Is Adam Ingram proposing going further than this committee? Is he proposing going to Europe or taking any other actions that he or the council proposes?

**Mr Ingram:** I cannot speak for the situation in Glasgow. I am here in support of the petitioners. Responsibility lies with Scottish ministers and we have still to get a response. I have written to the Minister for Environment and Rural Development, as have the protesters. I have a response with which I am not satisfied in terms of the reasons given for the decisions taken. I do not believe that all the options were properly weighed up. The minister has not responded to the protesters on this request for a moratorium. We therefore thought that the Public Petitions Committee was the appropriate place at which to raise the issue.

**The Convener:** I thank Adam Ingram for his comments. We now move on to discuss what to do with the petition. Adam is free to stay and listen to our discussion.

It is important that we seek a response from the Executive in advance of our next meeting on 15 January—our letter should be written in those terms. Given that local democratic opinion in the area is totally opposed to dumping and given the concerns about the risk to health and safety and the interests of the farming community, we should also ask the Executive to consider a moratorium on further dumping until the committee has addressed the petitioners' concerns. Is that agreed?

**Members indicated agreement.**



12:15

**The Convener:** Given the late hour, I suggest that we try to make as much progress as possible. I ask members to intervene only when they feel they really have to.

### **Telecommunications Developments (Planning) (PE425)**

**The Convener:** We come now to PE425, which is from Anne-Marie Glashan and which calls on the Parliament to adopt the precautionary principle that was recommended by the Transport and the Environment Committee in its report on the planning procedures for telecommunications developments. It is understood that the Executive has not adopted the principle because it does not consider that emissions from telecommunications masts are a material planning consideration. Emissions of radio-frequency radiation are controlled and regulated under the appropriate legislation by the Department of Trade and Industry and the Radiocommunications Agency. The Health and Safety Executive also has responsibilities in that field.

Applications for planning approval must be accompanied by a declaration that the equipment and the installation comply with the appropriate guidelines for public exposure to radio-frequency radiation. In national policy planning guideline 19, the Executive states:

"further reassurance may be taken from the fact that RF power units from mobile phone base stations are set at the minimum levels commensurate with effective service provision and the technical conditions under which base stations operate, including their maximum power, are specified in the operator's Wireless Telegraphy licences."

It is suggested that, given the differences between the petitioner and the Executive, we agree to seek the views of the Executive on the issues that are raised in the petition. In particular, we should ask whether there are any on-going studies into the safety of emissions from base stations, while acknowledging that responsibility for any such studies may lie with other departments or agencies. We could also ask the Transport and the Environment Committee for its view on the Executive's position, which came to light after the committee had completed its report.

**Phil Gallie:** That sounds fine, but the problem is recognised internationally. There have been many scares and I suspect that all kinds of research have been done much further afield than the Scottish Executive's area of responsibility. Perhaps there might be value in asking the Scottish Executive to give us a detailed response on what research has been carried out in Europe and elsewhere.

**The Convener:** Yes—that would not be a problem.

**Dorothy-Grace Elder:** Glasgow City Council's planning department scored a victory for public protest the other day when it refused to grant planning permission for a new clutch of masts. The council might have knowledge of some of the research that has been undertaken. As members know, the research has been inconclusive, but it certainly does not point to there being no danger to the public.

**The Convener:** In any event, we can ask the Executive to make information available to the committee, as it will have access to the research. Are we agreed?

*Members indicated agreement.*

### **War in Afghanistan (PE426)**

**The Convener:** The next petition—PE 426—is from the Scottish Coalition for Justice not War and seeks to stop the war in Afghanistan. It calls on the Parliament to hold a full debate as soon as possible on the events of 11 September, the causes of terrorism and the need to break the cycle of violence. It also calls on the Parliament to emphasise the importance of using the full judicial process to bring those responsible to justice and to do everything in its power to bring pressure to bear on the British Government to halt the military campaign against Afghanistan.

In certain respects, the petition has been overtaken by events, as the military campaign against Afghanistan is now winding down. It is suggested that we agree to note the petition but take no further action, on the basis that it is unlikely, in the present circumstances, that the Parliament would wish to debate the issues raised or that any subject committee would wish to consider the petition further. We could also agree to advise the petitioners that it is open to them to approach any MSP to discuss the possibility of lodging a motion to call for such a debate. I could consider doing that, for the sake of having a debate, but I do not think that we could seriously ask the Parliament to hold such a debate, given the present circumstances in Afghanistan and the fact that we held a debate on 25 October. Is that agreed?

*Members indicated agreement.*

### **School Playing Fields (PE430)**

**The Convener:** PE430 is from Mrs M Glendinning and calls on the Parliament to consider whether it is appropriate for local authorities, as owners of school playing fields, to be able to sell such assets and to grant planning permission to a developer, when such a sale is opposed. The petition also calls on the Parliament to consider whether, if a sale is opposed, there should be legally binding guidelines on

consultative procedures.

The petitioner sets out the background to the situation at a school in Kelso—Broomlands Primary School—where part of the playing fields has been set aside for housing purposes.

Members will recall that a similar petition, PE422, was considered at our meeting on 4 December and that we agreed to seek the Executive's views on the issues that it raised. We asked for details of the legislative protection that exists for school playing fields in Scotland and how that protection compares with similar legislative protection in England. It is suggested that, in view of the similarities between this petition and petition PE422, we should copy it to the Executive with the request that its response to petition PE422 address also the issues that are raised in petition PE430. Is that agreed?

**Members indicated agreement.**

**Phil Gallie:** It perturbs me that, time and time again, local authorities sell off land and then give planning permission that cuts across local plans, but when others try to cut across local plans, the plans are regarded as sacrosanct. Can we note our concern about that to the Executive?

**The Convener:** Sure. The petition makes that point, linking the two things. We will draw the Executive's attention to the fact that we are concerned about the way in which local authorities can set aside local plans if it suits their interests but will not allow others to do so.

### Scottish Ballet (PE433)

**The Convener:** The next petition is PE433, from Equity, on behalf of the Scottish Ballet dancers. It calls on the Parliament to urge the Scottish Executive to instruct the Scottish Arts Council to make a condition of continued funding and to recommend that Scottish Ballet restore its own independent board and review its links with Scottish Opera. The Education, Culture and Sport Committee has already conducted an inquiry into Scottish Ballet and copies of the conclusions and recommendations of its report have been circulated to members.

The report was critical of the dual role of the boards of Scottish Ballet and Scottish Opera and called for separate boards. It also criticised the handling of the process of change by the board as well as its approach to financial management. In its response to the Education, Culture and Sport Committee, the board of Scottish Ballet made it clear that it does not agree with the report's conclusions and recommendations. That committee will consider the matter again early in 2002, when it takes evidence from the Scottish Arts Council, Scottish Ballet and other interested

parties. I think that it intends to call the board before it at that time.

It is suggested that petition PE433 be referred to the Education, Culture and Sport Committee, with the recommendation that it be taken into account when the committee considers the matter again in the new year. Is that agreed?

**Members indicated agreement.**

**Phil Gallie:** Petition PE410 was on virtually the same subject and the Education, Culture and Sport Committee agreed to forward a copy of its report on Scottish Ballet to the petitioner when it was published. That committee has already addressed the matter, as it was raised in a separate petition.

**The Convener:** We have spoken to the clerk to the Education, Culture and Sport Committee. It is that committee's intention to take new evidence and it will welcome this petition when it is referred to it.

### Protection of Wild Mammals (Scotland) Bill (PE434)

**The Convener:** The next petition is PE434, from Miss Jeanna Swan. It calls on the Parliament to debate the serious implications of the unacceptable scale of destruction of dogs should the Protection of Wild Mammals (Scotland) Bill proceed. It also asks the Parliament to debate the serious implications of the loss of hunting for the welfare of the fox and fallen livestock, to overturn the Protection of Wild Mammals (Scotland) Bill and to forward the petition to the committees that are involved in handling the bill as well as to the relevant Scottish ministers.

We have taken a consistent line in dealing with the large number of petitions that we have received on the Protection of Wild Mammals (Scotland) Bill by referring them to the Rural Development Committee for inclusion in its consideration of the bill. The formal involvement of that committee has now ceased, as the bill has reached stage 3 and will be considered by the Parliament in the new year. Any member of the Scottish Parliament can lodge amendments for consideration at stage 3 and it would be possible for the petitioners and others to approach members to request that they lodge an amendment that is relevant to any concerns that they have.

Therefore, it is suggested that we advise the petitioners that the petition has arrived too late to be considered by the Rural Development Committee as part of its stage 2 consideration of the bill, but that they may approach individual members to request that they lodge an appropriate amendment at stage 3. It is suggested that the

committee agree to take no further action in relation to the petition.

**Phil Gallie:** I agree that the petition has arrived too late. However, the Executive may consider lodging amendments to the bill at stage 3, so it might be worth while for us to pass the petition to the Executive, in case it felt that there was some merit in it.

**The Convener:** We can certainly do that. Is that agreed?

**Members** *indicated agreement.*

## Current Petitions

### Sleep Apnoea (PE367)

**The Convener:** The first current petition is PE367 from Eric Drummond, which is to do with services for the diagnosis and treatment of those suffering from sleep apnoea. At our meeting in May, we agreed to copy the petition to the Executive, Greater Glasgow Health Board and Lothian Health for comments on the issues that were raised. On 11 September, we agreed that Lothian Health should be asked to provide the committee with details of the results of its review of the sleep service. On 23 October, we considered a further response from Lothian Health, which explained that the review was completed in July 2001 and outlined the actions that the board was taking in pursuance of that review.

The committee felt that that appeared to be a fairly positive response but, in view of the petitioner's direct involvement in the provision of the sleep service, it agreed to seek the petitioner's views on the actions that were being taken by the board. Mr Drummond has submitted his comments, a copy of which is attached to the briefing paper. He indicated that he would like clarification of the statement made by Lothian Health that the level of service provided—particularly on waiting times—would be the same as last year.

The clerks wrote to the board requesting clarification on that point and a response has been received. Again, members will find a copy attached. The response confirms that the level of service will be the same as last year and that the waiting times for the sleep service will continue, with the possibility of some improvement. It makes it clear that—as with other hospital services—doctors have discretion to prioritise the time a patient waits on the basis of clinical need. It stresses that any further investment and subsequent developments in the service will be a matter for the Lothian health plan—an approach for prioritising NHS investment that has been agreed by the Scottish Executive and local partners. Those involved in the review of the sleep service, including trust managers and clinicians who are responsible for providing the service, agreed to that course of action. The final version of the Lothian health plan will be available from April 2002.

The board has offered an assurance that, following the review, the future of the sleep service will be examined in the context of the Lothian health plan. It is suggested that that is the appropriate forum for the board to make decisions on the provision of its services. It would not be appropriate for the Parliament to intervene in that

process and it is recommended that we agree to note the petition and take no further action on it. A copy of the board's latest letter should be copied to the petitioner and to the clerk to the Health and Community Care Committee for information.

It is also suggested that we point out to the petitioner that, if he is not happy with that conclusion or with the outcome of the Lothian health plan in 2002, he is perfectly free to reopen the matter with us by means of another petition. Is that agreed?

**Members** *indicated agreement.*

### **Advice Services (PE396)**

**The Convener:** Next is petition PE396 from Mr Nick Fletcher, which is on access to free and independent advice services for citizens of Scotland. On 2 October, we agreed to seek the comments of the Executive, City of Edinburgh Council, Citizens Advice Scotland and the Convention of Scottish Local Authorities to establish their views on the issues raised in the petition. We have had comprehensive answers from the Executive, City of Edinburgh Council and Citizens Advice Scotland and a less comprehensive response from COSLA. I will not read through all the details of the responses.

The responses show that bureaux in Edinburgh and elsewhere are experiencing clear difficulties, so there is a good case for investigating further the funding mechanisms for citizens advice bureaux. It is suggested that we refer petition PE396 to the Local Government Committee for further consideration. Is that agreed?

**Members** *indicated agreement.*

**John Farquhar Munro:** There seems to be an issue about funding.

**The Convener:** Yes, there does. I think that the bureaux used to be directly funded by central Government in the 1980s. Funding was then passed to local authorities, which are beginning to feel the squeeze. That is where the funding difficulties come from. The issue must be addressed by the Local Government Committee.

### **Deaf and Hard of Hearing People (Social Work Services) (PE400)**

**The Convener:** The next petition is PE400 from Clare McCann, which is on behalf of the Deaf Equality and Accessibility Forum and concerns the removal of the post of specialist worker for hearing impaired people in the area served by South Lanarkshire Council. We agreed to seek the views of the Executive and South Lanarkshire Council on the issues raised in the petition.

The Executive has responded by indicating the

kinds of initiatives that help those who are deaf or hard of hearing and explaining how it monitors how local authorities provide social work services to such people. It says that it has no plans to issue guidance to local authorities, but provides details of a range of initiatives that are designed to improve services.

South Lanarkshire Council has given a comprehensive response. It points out that, by including the Deaf Equality and Accessibility Forum in the consultation on the council's sense and progress agenda, it has begun to address the points raised by the petitioner. That has resulted in specific recommendations to increase the existing social work complement from two to six—one per local office—by redeploying existing personnel to assume specialist responsibilities for people with sensory impairment. Those personnel will receive specialist training as a matter of priority and will, as part of a recurring annual service improvement plan, improve services to people with a sensory impairment.

The council points out that the petition predates the improvement in service provision and that, as a result, the concerns raised by the petitioners have now been addressed. The Equal Opportunities Committee is of the view that the petition should be referred to the Local Government Committee, should the Public Petitions Committee agree that further consideration is necessary. It also requests that Gil Paterson MSP, as disability reporter, be kept informed of developments on the petition.

It would appear that South Lanarkshire Council has addressed the concerns raised in the petition. It is suggested that the committee may wish to agree to copy the responses that have been received to the petitioners and ask whether they are content with the action that has been taken by the council. It is also suggested that, in the meantime, we keep Gil Paterson advised of the action that we have agreed as a committee. Is that agreed?

12:30

**Members** *indicated agreement.*

### **Access to the Countryside (PE415)**

**The Convener:** The last of the current petitions is from Scottish Environment LINK Access Network, the Scottish Countryside Access Network and the Scottish Sports Association and concerns the proposed legislation to provide a right of responsible access in Scotland. The petitioners are concerned that the laws should not criminalise the public when they enjoy the outdoors; should not give land managers, local authorities or the police new powers to keep people off the land; and should impose a duty on

local authorities to improve countryside access opportunities and give them the necessary resources to do so. Members will remember that the petitioners' concern arose from the draft Land Reform (Scotland) Bill, which had been published by the Executive.

We agreed at our meeting on 6 November that the petition should be copied to the Executive for its comments on the points that were raised. A response has been received from the Executive and a copy is attached. The Executive response points out that the majority of the responses to the consultation on the draft bill related to access provisions. Ministers gave careful consideration to those views and the bill that was introduced to Parliament on 27 November had changed significantly from the draft bill. The response shows that the bill now contains no new criminal offences, nor powers to allow land managers, local authorities or the police to keep people off the land. In addition, the bill requires local authorities to uphold access rights and to plan for and establish systems of core paths to provide reasonable access throughout their areas.

The Executive response appears to address the petitioners' concerns. It is suggested that the committee should agree to copy the response to the petitioners to establish whether they agree. Is that agreed?

**Members** *indicated agreement.*

## Convener's Report

**The Convener:** We, along with six petitioners, gave evidence on the Public Petitions Committee to the Procedures Committee on 11 December. Almost all the petitioners commented favourably on the Public Petitions Committee, which is good news for us.

The next meeting of the committee is on 15 January.

**Phil Gallie:** I wish to apologise in advance, as I will be unable to attend the meeting on 15 January.

**Helen Eadie:** I wish to apologise as well; that is the day of my operation.

**The Convener:** I wish everybody all the best for a happy Christmas and a good new year. See you all in 2002.

*Meeting closed at 12:32.*



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