

PUBLIC PETITIONS COMMITTEE

Thursday 6 June 2002
(*Afternoon*)

Session 1

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PUBLIC PETITIONS COMMITTEE

10th Meeting 2002, Session 1

CONVENER

*Mr John McAllion (Dundee East) (Lab)

DEPUTY CONVENER

*Helen Eadie (Dunfermline East) (Lab)

COMMITTEE MEMBERS

*Dorothy-Grace Elder (Glasgow) (Ind)

*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)

COMMITTEE SUBSTITUTES

Irene McGugan (North-East Scotland) (SNP)

Mrs Lyndsay McIntosh (Central Scotland) (Con)

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*attended

THE FOLLOWING ALSO ATTENDED :

Andrew Dewey

Shona Hogg (Firrhill High School)

Simon Hunter (Firrhill High School)

Wendy Robinson

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Stuart Smith (Royal National Institute for Deaf People)

Fiona Stewart (Royal National Institute for Deaf People)

Sandra Sullivan

Lea Tsui (Firrhill High School)

Ron Waddell (Firrhill High School)

James Watson

Margaret Watson

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Thursday 6 June 2002

(Afternoon)

[THE CONVENER *opened the meeting at 14:46*]

New Petitions

Audiology Services (Modernisation) (PE502)

The Convener (Mr John McAllion): I welcome everyone to the 10th meeting this year of the Public Petitions Committee. We have received apologies from John Farquhar Munro and Rhoda Grant, both of whom are attending a meeting of the Rural Development Committee. Mike Rumbles MSP has joined us this afternoon to support our first group of petitioners.

Without further ado, I move straight to the first petition, which is PE502 from Fiona Stewart on behalf of the Royal National Institute for Deaf People. Ms Stewart is accompanied by Stuart Smith, who is the chief executive of the RNID, and Andrew Dewey, a sign language interpreter. I invite Fiona Stewart to make an opening statement.

Fiona Stewart (Royal National Institute for Deaf People): Thank you for allowing us to attend today's meeting, as it presents a good opportunity for the RNID to make the committee aware of its concerns about audiology services and digital hearing aids. The committee will be aware of such hearing aids from various parliamentary questions and will have received campaign reports and other material on the issue.

We know that the Scottish Executive is awaiting the completion of a review of audiology services. However, my chief executive and I have received countless calls and letters from the general public on the issue. Many members and non-members of the RNID want vast improvements in audiology services and the use of digital hearing aids. Many people say that they feel isolated from friends and families and wonder when people will start to listen to their needs.

The situation is dire. We are very behind England and Wales in this area. The audiology service in Wales is being modernised and the service in England is being reviewed. By 2003, a third of the people in England who need digital hearing aids will be able to receive them, whereas only 1.6 per cent of people in Scotland who need them will be able to.

Evidence from England suggests that hearing aid users who are given digital hearing aids experience a 40 per cent improvement in hearing quality. There are 730,000 adults in Scotland who are deaf or hard of hearing, which is one in five of the adult population. In England, 20 hospitals already provide digital hearing aids and £10 million has been provided to allow 45 more hospitals to incorporate digital technology in their audiology services. Moreover, in England the price of digital hearing aids has been reduced to £150.

Now is the time for the Scottish Executive to make a firm commitment to review audiology services and examine the provision of digital hearing aids. Why should we have to continue to wait for audiology reports and reviews? Why must we wait for the report from England? Why should we continue to wait for people to listen to us? Why cannot commitments just be made? Often, we are asked, "When will people listen to the needs of those who are deaf or hard of hearing?" We were asked to be proactive and we have taken action. I ask that the petition be referred to the Health and Community Care Committee so that action can be taken now.

The Convener: I invite Mike Rumbles to speak in support of the petitioner.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Thank you for inviting me to do so, convener. I support the petition. As Fiona Stewart said, thousands of members of the RNID will benefit from action on this matter. Social inclusion is important for us all in the Parliament. For relatively little cost, people's lives can be revolutionised by accessing digital hearing aid technology.

I will read the committee a couple of sentences from a letter that I received more than two years ago from Susan Deacon, the then Minister for Health and Community Care. It was sent on 28 April 2000, when I first raised the issue with ministers. In the letter, she states:

"Digital hearing aids are already available on the NHS in Scotland and we have just widened the choice available to patients by introducing further types of aid as from 1 April this year"—

that is, April 2000.

"I hope this reassures"

your constituent

"that we are taking a very pro-active approach to the provision of this kind of equipment for patients in Scotland and that I have allayed his fears over potential costs related to using digital hearing aids."

It is evident that the Scottish Executive felt that digital hearing aids were being provided in Scotland, but it is apparent that health boards were not providing them. In Grampian, after much

pressure, the training of audiologists began only in January. There is now a commitment to assess the first patients at the beginning of the autumn, but there is still no commitment to issuing people with digital hearing aids.

Not everyone can benefit from those aids, but the vast majority of people can. The technology will revolutionise social inclusion for many people at relatively little cost. I hope that members will listen to what has been said and will refer the petition to the Health and Community Care Committee for action. It would be wrong to hold up the issue any further, because we have been going at it for more than two years.

The Convener: Before I open up the meeting to questions, I remind members that there will be a delay between their asking a question and the sign language interpreter conveying the question to the petitioner. I ask members to speak slowly and clearly. I know that I am the last person who should be telling committee members to speak slowly and clearly, because I am not good at that myself.

Phil Gallie (South of Scotland) (Con): Fiona Stewart suggested that the cost was around £100 per digital hearing aid south of the border. However, when I followed the issue up with my local health trust, I was told that the capital cost of the equipment is not the sole charge—costs for training, technical back-up and other aspects go with it. Could you compare the overall costs of the digital hearing aids with those of the analogue hearing aids that are currently in use?

Stuart Smith (Royal National Institute for Deaf People): You are correct that digital hearing aids incur investment costs in training staff and in some of the equipment, but many hospitals already have the equipment and the software packages are supplied by the manufacturers. There are additional costs, but they would be incurred in any case, because the modernisation of audiology will bring a need to increase the effectiveness of audiologists.

That process has started. The Scottish Executive allocated £750,000, which was ring fenced, to all health boards; one factor that was built into that was the better use of staff. For example, less-qualified staff can undertake administrative tasks and leave audiologists and senior audiologists more time to deal with patients.

That is part of a process. I will not hazard a guess at the exact figure, but that process has started in England and, as Fiona Stewart mentioned, a third of all patients in England will receive digital hearing aids by late 2003. In Wales, the percentage will be even higher, because all people who require digital hearing aids will receive them this year. That is part of a modernisation

process that has been successfully completed in England and Wales.

Phil Gallie: You did not mention the cost of analogue systems. Will you do that, so that we can have a comparison?

Fiona Stewart: The cost of a top-range analogue hearing aid would be comparable to that of a digital hearing aid.

Phil Gallie: What quality of analogue hearing aid does the national health service issue?

Fiona Stewart: Detailed research was conducted on analogue hearing aids about five years ago. There has not been any subsequent detail on them.

Phil Gallie: What percentage of NHS patients would find digital hearing aids useful?

Stuart Smith: Cathie Craigie has made comments—based on the findings of audiologists—suggesting that 85 per cent of people would benefit from digital hearing aids. If you will bear with me, I can give you the reference to her comments.

The Convener: If Cathie Craigie said it, it must be true.

Phil Gallie: I am not so sure about that, but never mind.

Dr Winnie Ewing (Highlands and Islands) (SNP): A fundamental question is what degree of deafness benefits from the digital hearing aid. Would a person who had been stone deaf from birth benefit or would only those who are hard of hearing benefit? Is it a question of degree? You said that 85 per cent of people would benefit. I would like to understand that fully.

Stuart Smith: Cathie Craigie said:

“according to two of Scotland’s leading audiologists, in 85 per cent of cases, digital aids are superior to current practices.”—[*Official Report*, 29 November 2001; c 4457.]

People who are profoundly deaf, especially people who are born profoundly deaf, will not benefit from a digital hearing aid. They might not benefit from any type of aid. However, in 85 per cent of cases—that would principally cover hard-of-hearing people—benefit would be felt, because of the directional facilities of the digital hearing aid, which allows sound to be tailored more precisely to the individual. It is correct to say that digital hearing aids will not necessarily be an improvement for people who are profoundly deaf, but analogue aids are also unlikely to be suitable in those cases.

Helen Eadie (Dunfermline East) (Lab): This morning, I, like Mike Rumbles, signed letters on behalf of constituents who have made representations about hearing aids. I have

received responses that are similar to those that he has received. Reviews by various health boards are taking place throughout Scotland.

I notice that the minister has made available £0.75 million to aid that work. I also notice from the papers that have been distributed that the RNID has been successful in managing a UK Government programme to modernise audiology services in 20 NHS hospitals in England—Fiona Stewart mentioned that. Does the RNID think that that could be a better way of tackling the problems in Scotland, bearing in mind the number of health boards in Scotland? Would there be streamlining of administration and would duplication of administration be avoided? Most important, would that approach deliver hearing aids urgently to my constituents and Mike Rumbles's constituents, who desperately need them?

15:00

Stuart Smith: Yes. In England, the RNID co-manages the project with the NHS. In Wales, the RNID is on the project team, although it does not co-manage it. There is no doubt that a lot of information, facilities and expertise are available of which the NHS in Scotland could avail itself. Indeed, I serve on a number of audiology committees, such as the audit committee needs assessment group, with other voluntary organisations. We could certainly take advantage of the RNID's experience in Wales and England. I am sure that we would be prepared to consider that. I hope that doing so would lead to faster implementation.

Helen Eadie: Do you think that the RNID would have the capacity to deliver the programme exclusively? Would that route be better? Should there be partnership with existing NHS audiologists throughout Scotland? Is there some other way that might facilitate quick action? This case is not the first that I have had to deal with today. The worst case was at Christmas. I had to say no to a constituent who was going to suffer from broken equipment over the Christmas holiday. The person was old and was going to be excluded during that period. That did not make me feel good.

Fiona Stewart: The way forward is through partnership working. We have worked in partnership and on project management teams in England and Wales and we believe that a similar model should be followed here. Certainly, we have experience, skills and staff who can give a lot of input and support, but a partnership approach is the best way forward.

Stuart Smith: I totally agree with Fiona Stewart. Partnership has been a key success story in England. One must work with the health boards,

the health trusts and audiology staff. By doing so, parties can gain from one another's experiences.

Dorothy-Grace Elder (Glasgow) (Ind): You say that the £150 cost to the NHS in England is

"a small price to pay to revolutionise someone's life."

Could that money affect employment, too? Do you have an approximate idea of the true level of unemployment among hard-of-hearing people? I know that the level is high.

Fiona Stewart: The percentage is high. Many deaf and hard-of-hearing people have difficulty finding employment. People have approached me asking for digital hearing aids to assist them in their employment; they believe that such aids would help them in their employment. Many people who would like the assistance that digital hearing aids bring are suffering in silence.

Dorothy-Grace Elder: Do you have an estimate of the extent of the problem in the community? I was once at an event at which I heard that an estimated 60 per cent of people in Strathclyde had difficulties with hearing and that the problem was on the increase. Perhaps it is just that the diagnostic tests are better, but 60 per cent seemed a very high figure. What would your estimate be?

Fiona Stewart: We suggest that one in five adults in Scotland suffer from some hearing loss, which is about 730,000 people. At least one in five of the people in this room will have some degree of hearing loss.

Phil Gallie: Is not there a Government scheme, called access to work, which allows people to draw on digital facilities if they have the need?

Fiona Stewart: Yes, but the access to work scheme does not cover private use. Digital aids are purchased privately through the access to work scheme, costing between £1,000 and £2,000, but why not give us digital hearing aids regardless, instead of giving out analogue hearing aids? Why must I and other people who pay taxes have to apply for eligibility for digital hearing aids? Why should we not be given the opportunity to get digital hearing aids, which can radically change people's lives, in the first place? Access to work will not help people who have retired and who require digital hearing aids. Because those people are not eligible for them, they will suffer and will be worse off.

Phil Gallie: I totally accept that, but I was really referring to Dorothy-Grace Elder's comment about employment. Is it in the hands of individual health boards to supply digital hearing aids if they feel that to be appropriate? Is the problem not so much about the provision of the equipment as about staff expertise and the expertise of those who deal with digital facilities?

Fiona Stewart: We are aware of the shortage of staff, which is why the RNID has commissioned research. We are not criticising health boards. The subject needs more research. We have approached the Scottish Executive and the Parliament to commit more to improving audiology services—we are not focusing solely on digital hearing aids. We need to consider audiology services overall and digital hearing aids form part of that service. Unless there are improvements in the next year or two, we will fall further behind England and Wales, which are making strides forward.

Mr Rumbles: I have spent the past two years sending many letters to and getting many letters from ministers and I know that Susan Deacon was, and that Malcolm Chisholm and Mary Mulligan are, very sympathetic to the idea of modernising audiology services. What is your perception of the problem? I know from the members' business debate on the matter last November, from all the responses to parliamentary questions and from informal contact that ministers seem to be very positive on the matter.

However, the health boards do not seem to be sufficiently organised to deliver an effective service and are pleading that they do not have the necessary resources. What, effectively, is the problem? Do you think that you need to ask the Health and Community Care Committee to investigate the problem? Everybody seems to be in favour of resolving it, yet that is not happening. Should the matter go to that committee so that it can determine why it is not happening?

Stuart Smith: I definitely think that the issue should go to the Health and Community Care Committee. The problem is money in the first instance, but it is not just a question of money and budgets. Before the recent allocation of £750,000 to audiology services, money was not ring fenced. It is said that audiology is the cinderella service of the health service.

A deaf person said to me, "You don't die from being deaf." Perhaps that is the source of the problem. There is a general perception that audiology services have been underfunded for many years, but that is coming to light only as a result of England and Wales taking the initiative. We need a cash injection into audiology and we need the money to be ring fenced.

Training is dreadful—people have to go to Middlesbrough to obtain an audiology degree, as there are no facilities in Scotland. Staff morale is dreadful. I know that because I visit many of the audiology services. The staff are more than willing to help and they put in many hours, but they are under-resourced, they lack the training in some cases, they do not have the information technology infrastructure, they are without proper

equipment and in many instances the sound-proof rooms are not up to standard. Some 18 months ago, best practice standards in audiology were issued. Many hospitals simply cannot afford to attain those standards. The situation is serious. Fiona Stewart mentioned our desire for better provision of digital hearing aids, but we need more than just that. We require a modernisation of the whole audiology service.

Dr Ewing: I will pursue the issue of ring fencing. The briefing paper says that the £750,000 was

"for NHS boards across Scotland to speed up treatment for patients with hearing problems".

Are you suggesting that that money will not be ring fenced for hearing problems and that it might be spent on other areas?

Stuart Smith: No, I said that the allocation of £750,000 was the Scottish Executive's first ever allocation of money specifically for audiology. Such an allocation has never taken place before. The press release that accompanied the announcement of the £750,000 stated that the sum was non-recurring—it was for one year only.

The total health budget for last year was of the order of £5.4 billion. The amount of direct spending on audiology was £7.2 million. That sum does not take account of all the overheads. The percentage of expenditure on audiology services is 0.14 per cent, which is not even a quarter of 1 per cent. That is a tiny proportion. The fact that one in five adults are deaf or hard of hearing shows the extent of the imbalance. We want to emphasise that point and we feel that it is vital that the matter be referred to the Health and Community Care Committee.

Dr Ewing: So the deaf are the Cinderellas of the whole situation.

Stuart Smith: Absolutely.

Dr Ewing: I escorted a blind man who won me as a prize—the prize was to spend a day with me going around Edinburgh. He had a marvellous time. Everyone was wonderful to him and his dog. Even though it was a busy July, everyone made way for him when we went into a pub. He said to me that everyone is kind to the blind. No one is kind to the deaf, however, because people are not aware of deafness.

On the subject of the shortage of interpreters for the deaf, I was told that we have 35 sign interpreters, whereas Finland has 350 sign interpreters. In Finland, deaf children who go to an ordinary school are accompanied by a person to help them through their schooling and deaf university students are accompanied by an interpreter for the deaf. What a contrast that makes to the situation in our country. The poor interpreters here are developing diseases of the

fingers. They are becoming exhausted because they are so kind and cannot say no. Many of them tell me that they are sorry that they ever became signers.

I will ask a separate question. Fiona, could you qualify as a teacher of sign language?

Fiona Stewart: You are right—there are great challenges. People like me need an interpreter to access all kinds of things. A deaf person needs access and an interpreter enables such access. It is essential to have communication—and therefore to have an interpreter present—in many situations. The shortage makes that difficult. One often goes to places and is not given information until afterwards—one is kept waiting to receive information.

If someone comes from a family that has different generations of deaf family members, it is possible to see that there has been very little improvement for deaf people, as things are the same now as they were for previous generations. There is still discrimination and improvement has not been forthcoming. Deaf people continue to feel second class, despite paying taxes and so forth.

15:15

Dr Ewing: Thank you. I was sorry to digress a little, but I could not resist the opportunity to ask the question.

Helen Eadie: This morning I wrote to my constituents to say that Fife NHS Board was undertaking a review and that that review was feeding into a national Scottish Executive-level review. The letter also set out that the review process would come to a culmination in September. Are you involved in the review? Is there any way that we can push the RNID to head up a task force that would be charged with delivery?

Stuart Smith: I am involved in three sub-groups of the review group: the audit, needs assessment and needs assessment of adults sub-groups. The report will be ready by September or October. I have offered members of the review group and the Scottish Executive the opportunity to visit the modernisation programme in Wales in which the RNID is involved. I am pleased to say that, in two weeks' time, members of the Scottish Executive and the review group are coming with me to visit Wales.

The visit will give us an excellent opportunity to review the running of the project. The health service in Wales has been very kind, as it has offered to give us a copy of the facilities that it uses for the project implementation plan. Cost has not been mentioned—we might get it for nothing. That is a genuine step forward. In answer to the

question, the RNID is keen to be involved in such a project.

The Convener: I have a final question about the comparison of Scotland, Wales and England. The audiology services in 65 hospitals are to be completely modernised. Do you know the cost of that?

Stuart Smith: I do. If the convener will give me a minute, I will dig through my papers and give the committee a breakdown of the costs.

The Convener: I am interested in the £750,000 that has been made available by the Scottish Executive. How does that figure compare to the amount that the NHS in England is making available?

Stuart Smith: If the convener gives me a second, I will go through my papers. The funds are additional funds that have been invested in England and Wales. A figure of £30.6 million has been invested in England, of which £10.6 million went in the first wave to 20 hospitals. That figure was followed up with a £20 million allocation. In Wales, the figures are broken down over a three-year period with £2.25 million in 2001-02 and £3.5 million spread over the following two years. The moneys were ring fenced specifically for audiology and were to be spent on modernisation and digital hearing aids.

The Convener: If we were to set an equivalent figure for Scotland, would it be somewhere between those two?

Stuart Smith: An equivalent is difficult to set. That is because England and Wales were ahead of us even before they started and because of the introduction of what is called the universal neonatal hearing screening, which will add additional costs to the audiology services. However, if a comparison were made between the figures, a rough estimate of the starting position, on which I would not wish to be quoted, would be of a figure between £10 million to £12 million.

Mr Rumbles: Can I add some information to that? Of the £750,000 that has been allocated in Scotland, £60,000 has come to Grampian NHS Board. That sum has to be used simply to purchase software that will enable the database to be established. No money is coming to Grampian NHS Board to assist patients once they are assessed. Patients can have an assessment, but no commitment can be made to give digital hearing aids to patients.

The Convener: In order for us to be clear on the subject, will the £750,000 make a difference to the number of Scots who will be given access to digital hearing aids?

Fiona Stewart: No.

Stuart Smith: This is not a question, but I would like to raise the issue of waiting lists. In Edinburgh, for example, after a person has appeared before his general practitioner, it takes 73 weeks for him to be fitted with a hearing aid.

The Convener: Seventy-three weeks?

Stuart Smith: Seventy-three weeks.

Phil Gallie: I can give a personal viewpoint on that, as I have a little bit of a problem with my hearing. I am sure that I was not treated with any privilege, but only eight or nine weeks elapsed between the time when I saw my GP and the time when I should have been fitted with a hearing aid, which was yesterday. That was in Ayrshire. Does that suggest that there is a great disparity between the various health boards?

Dorothy-Grace Elder: No, it was because you are Phil Gallie.

Phil Gallie: No, I am quite sure that it was not. I am aware that other people have been treated similarly quickly.

Stuart Smith: I do not have the figures for every health board area, but the waiting time in Edinburgh was quoted to me as 73 weeks. The situation in Kirkcaldy is also fairly bad, although not as bad as that. I do not have figures for other health board areas but, from what Phil Gallie is saying, it appears that there is a disparity between treatments in different health board areas.

The Convener: Thank you very much. That was valuable information. I hope that the committee has acknowledged it. You are welcome to listen to the committee's discussion of what it wants to do with the petition.

The suggested action is not what the petitioners have asked for, which is that we refer it directly to the Health and Community Care Committee. That committee will hold only a couple of meetings between now and the recess. If we refer the petition to the Health and Community Care Committee now, nothing will happen until after the recess. However, if we write to the Executive now and get a response, that will be available to the Health and Community Care Committee when we refer the petition to it after the recess. That will get some of the work done and will get us further down the road than we will be if we just pass it on directly now.

The suggested action is that we write to the Executive, asking it for confirmation of the position regarding the provision of digital hearing aids by NHS Scotland and for comment on the seemingly different approach that is being taken in England. We should also ask the Executive for an update on the review of audiology services provision in Scotland and whether it expects the additional funding that is being provided to the health boards

to improve the treatment of those who have hearing difficulties and benefit individuals who require digital hearing aids specifically. We can get that information and pass it on to the Health and Community Care Committee. We can also pass a copy of the petition to the Cross-party Group in the Scottish Parliament on Deafness and to the clerk of the Health and Community Care Committee, for their information.

Dr Ewing: We should include in our comments to the Executive some of the points that have come out of today's debate. The waiting time that has been quoted is horrendous, although Phil Gallie gave a better account.

The Convener: We can ask for confirmation of all the waiting times.

Dr Ewing: We are also told that

"the Executive is currently assessing the measures that individual NHS Boards take in following the Good Practice Guidance."

The good practice guidance recommends that all people who need a hearing aid should be able to get one. Can we ask whether the assessment will obey the good practice guidance or ignore it? That is a relevant question. What is the status of the good practice guidance? Who issued it? Was it the Scottish Executive or somebody else? I do not know.

The Convener: We will ask the Executive for clarification of the status of the guidance and whether following it is mandatory.

Dorothy-Grace Elder: It might have been issued by SIGN—the Scottish intercollegiate guidelines network.

Dr Ewing: In addition, we should point out that it has been exposed to us that the ring-fenced £750,000 is not likely to put a single hearing aid in a single ear. In case the Executive gets the idea that that is a large sum of money and that the Executive is doing a good job, we should point out the fact that has arisen out of today's debate, which is that that money is not going to do the job. We should also point out that there is a big need for money and make the contrast with expenditure in Wales and England.

The Convener: It has been suggested that we could send the Executive a copy of the *Official Report* of this part of today's meeting and ask it to respond to the points that the petitioners have made.

Dr Ewing: I do not know where the good practice guidance comes from. I do not know who issued it.

The Convener: We will ask the Executive for the statistics.

Mr Rumbles: In the members' business debate that took place in November, the Deputy Minister for Health and Community Care, Mary Mulligan, said that the good practice guidance had been issued about 18 months previously. That is why the confusion has arisen. I referred earlier to the letter that I received from Susan Deacon two years ago, in which she was quite adamant that digital hearing aids were available and that the Executive assumed that they were being issued. At the end of the members' business debate in November, Mary Mulligan said that the chief executive of the NHS in Scotland had written to the chief executives of all 15 health boards in Scotland to ask them to adhere to the good practice guidance.

My point is that things are not happening on the ground, although Scottish Executive ministers are saying, "This is what we are putting into practice. Those are the good practice guidelines that we have given out to the health boards. We assume that everything is okay and that things are happening". When the convener writes to the Executive, I ask him to refer to the letter that Susan Deacon sent me two years ago. I will also give a copy of the letter to the official report.

The Convener: I suggest that we should also ask the Executive to report back to the Public Petitions Committee on its initiative in writing to the 15 health boards and to tell us what response it received from them.

Helen Eadie: Could you also make a strong recommendation in that letter, convener? I do not know whether we have the right to make recommendations and I do not know whether members would agree with me, but I have a strong view that we should set up a task group to bring people together as a matter of urgency. We should not wait for a review in September, October, November or December. Let us get started and sort out the problem now. Let us bring together all the audiology services in Scotland under the directorship of some capable person—possibly the RNID—and pool resources. In my experience, there is nothing better than getting people who have mutual interests and the drive and determination to succeed to make collective endeavours.

I would like to think that we could send that strong message to the Scottish Executive on the back of today's meeting. I feel a sense of sheer frustration, because I have had to make similar representations to the minister. If I were called upon to do so, I could produce the letters that I had to write, although they provided no comfort to my constituents, as the responses spoke only of reviews. We do not want reviews; we want action.

The Convener: I remind members that our ultimate decision will be to refer the petition formally to the Health and Community Care Committee. That committee will make

recommendations, although we can ask the Scottish Executive to respond to the proposal to set up a task group, so that progress can be made, as part of a partnership between the RNID and the audiology service.

Dr Ewing: In the light of the letter that Mike Rumbles mentioned, could we not declare our dissatisfaction with the situation?

The Convener: We could do that, but it will be for the Health and Community Care Committee, rather than the Public Petitions Committee, to make firm recommendations about the way forward. We are simply trying to shortcut the system. The Health and Community Care Committee would have to write to the Executive anyway and it would be better for us to do that first.

Dorothy-Grace Elder: As members of the Health and Community Care Committee, the convener and I know better than anyone that the big problem is having a reporter available to do a report on the petition. I should explain that the Health and Community Care Committee appoints reporters from among the members of the committee. The stronger our letter to the Executive is the better. As I glance at the figures, I notice that England gets £30 million for English services for the deaf. It is clear that, with £750,000, the Scottish deaf are being short-changed. The £30.6 million is ring fenced, as Fiona Stewart pointed out. That information is incredibly valuable and should be included on your publicity leaflets.

The Convener: It is perfectly in order for the Public Petitions Committee to make clear our strong views that we expect the Executive to treat the petition as an urgent matter and our disappointment and anger that Scotland should be lagging so far behind the other parts of the UK in the provision that is made for deaf people.

Phil Gallie: My attention goes back to the letter that Mike Rumbles received. I am quite sure that other members who wrote to the Executive got exactly the same response. We were reassured by the Executive, but it seems that, two years on, no progress has been made. That is particularly the case in respect of the digital apparatus that was the initial target of the petition. I want to back up Mike Rumbles's comment about getting the Executive to concentrate on that point. Given that the letter was sent out two years ago, why are the health boards not delivering on this?

We cannot use what we have heard about the money that is spent in Wales and England as a real criticism, because devolution means that we are different. However, given the cost of what the health boards are delivering south of the border, what does the Scottish Executive think that it will get from its £750,000?

The Convener: The letter is starting to turn into “War and Peace”—it has everything in it—and we have to be careful. The clerks have taken down most of the points that we have made and they will be put to the Executive. I was interested to hear that Phil Gallie thinks that devolution means that we spend less on public services.

Phil Gallie: Devolution does not mean that. The Executive makes that choice and perhaps it has made the wrong choice in this case.

The Convener: Is it agreed that all those points will be incorporated in the letter that we will send? When we get the responses in, we can formally refer the petition to the Health and Community Care Committee. I hope that that committee will get down to taking action on it immediately after the recess.

Members indicated agreement.

15:30

Dr Ewing: May we thank the signer?

The Convener: Yes, we give a sincere thanks to the signer, without whom this discussion could not have happened. The lack of signers in the Parliament is another example of how it is not living up to claims of openness, transparency and accessibility. The Parliament is not accessible for deaf people and we have seen that vividly this afternoon.

Andrew Dewey: I hope that you will see more of us in the future.

The Convener: At its next meeting the committee will deal with a petition on education for deaf people. Such issues are on the Parliament’s agenda. Thank you.

Smoking in Public Places (PE503)

The Convener: Our second petition is from the pupils of Firrhill High School. Simon Hunter, a pupil at the school, is here to make a brief presentation to the committee. He is accompanied by Mr Ron Waddell, who is a teacher at the school. The normal practice is that you get three minutes to make a presentation and, after you have made it, members of the committee can ask questions. I notice that other pupils are with you. Perhaps you could begin by introducing them.

Simon Hunter (Firrhill High School): Shona Hogg and Lea Tsui are with me. We are from Firrhill High School in Edinburgh and we are part of the after-school club called peer mediation. We discussed various issues and eventually agreed that the most important issue was the banning of smoking in public places. Shona, Lea and I were chosen from the class to present the petition to the committee.

We did research on the internet and found a lot of worrying statistics on the dangers of passive smoking. For example, it seems that people are four times more likely to develop lung cancer if they are regularly in a smoky atmosphere. In addition, only 13 minutes of passive smoking is enough to reduce blood flow to the heart. That is because tobacco smoke contains more than 4,000 chemicals that cause roughly 5,000 people to die each year.

Many pupils at our school are concerned about the health risks of passive smoking and want to see a total ban on smoking in public places. As members can see, we collected more than 200 signatures in the school over a very short time, despite the pro-smoking lobby. However, it was suggested that we might have special designated areas for smokers to smoke without affecting non-smokers with passive smoking.

We know that the Parliament has been considering this issue, because we checked its website. We hope that the Parliament will be able to make a necessary change in the law to ban smoking in all public places.

The Convener: Thank you very much, Simon.

Phil Gallie: I am going to be the big bad questioner. I congratulate you on a good presentation, which was very slick, as the ladies were giving assistance on the side. Among young people today, there seems to be great pressure to legalise cannabis. How do you feel that your ban on smoking in public places fits in with the cannabis issue, and will you assure me that the pupils of Firrhill would write in to say that we should not legalise cannabis?

Ron Waddell (Firrhill High School): Perhaps I can say a few words about that. The group discussed the issue of drugs, and although most of the teachers thought that it would be the sexiest issue for the kids, it was not. They did not think that it was the most important issue. They were aware that there were problems with drugs in the community but, as far as they were concerned, the problems were minor in comparison with smoking. It was an eye-opener for us all that the more basic issue of being in a smoky atmosphere, seeing people smoking round the corner and the image that somehow that was a cool thing to do was more important for them. The real shock for us was that so many of the kids were against smoking in public places.

Phil Gallie: Thanks very much. You are looking for a legislative ban, but one of the things that perturbs me is that I see a heck of a lot of youngsters—and, I have to say, particularly young girls—smoking on the streets today. That is already against the law, so what good would legislation do? If that question is a wee bit too

hard, I will ask something else. Do you think that there is an element of personal choice in this matter? Do you agree that people should be allowed to choose for themselves whether they go to pubs and restaurants where there is a ban on smoking or where there is not a ban on smoking?

Simon Hunter: I think that there should be different restaurants for people who want to smoke and people who do not want to smoke. Some restaurants have non-smoking areas, but you are still affected by passive smoking if you sit in them because the two areas are not that far apart. If there were separate restaurants for smokers and non-smokers, that might cut down the number of people dying of passive smoking.

Dr Ewing: Having restaurants with smoking sections and non-smoking sections is worthless because the smoke circulates throughout the room. The Belgians make great play of having separate sections, but it makes no difference. Either you have a ban or you do not. The voluntary code is all very well and it works in a lot of places, but there are a lot of factories, for instance, where the code is not adhered to, even though people are there all day. Some factories probably now have a separate smoking area but, if the air is circulating, what is the difference?

By my remarks, you will have realised that I am a non-smoker. I am married to an ex-smoker who is absolutely virulently anti-smoking now. I have a daughter who smokes and the whole thing is very difficult because he has almost stopped speaking to her over the principle.

I do not think that the voluntary code is working. Do you think that having separate smoking areas is an effective way of dealing with the problem?

Shona Hogg (Firrhill High School): I do not think that they work. The smoke simply circulates around the room. In some places, the fact that you are in a non-smoking section makes no difference at all because you have to sit right beside the smoking section.

Ron Waddell: The pupils came across an interesting piece of research from the United States of America. In some states, the anti-smoking lobby had managed to have put in place a number of draconian measures. I am a non-smoker but my wife smokes and, when we were there, she found that there was enormous social pressure not to smoke. We are going to the US again this summer and my wife has given up because she knows that she will not be able to smoke there. Such measures can be effective. In answer to Phil Gallie's point about what measures we can put in place, perhaps we should look to the American experience to find out how such bans can be legally administered.

Helen Eadie: Some of the anti-smoking

measures in the US came about as a consequence of what are known as class actions, in which a group of people come together to instruct the legal profession to represent them in courts. Should that happen in this country? I know that Leigh, Day & Co, a London legal company, was interested in tackling this issue but I believe that, against its will, the company entered an agreement with the powers that be in America that it would not go down that route. However, other companies might think about that.

Ron Waddell: In the US there were a number of test cases in which passive smokers challenged tobacco companies, saying that those companies were indirectly responsible for the deterioration in their health. That frightened many of the tobacco companies and the authorities, which feared a huge legal bill. If individuals were to take court action, that might be a trigger for movement.

Helen Eadie: I have another question for the pupils. Like Phil Gallie, I congratulate you on the research that you are doing. Have you prepared leaflets to share that research with your friends in the school? Are there leaflets available that teach you what it is like to smoke and what people feel like when they smoke and that describe the adverse effects of smoking on people who have been in places such as smoky bars and are left with a smell on their clothes?

Simon Hunter: In one class we are taught what can happen if we start to smoke or to take drugs. Everyone learns about that in first or second year.

Lea Tsui (Firrhill High School): In one lesson my class talked about smoking—at whom it is targeted, what can be done about it and how we should be educated about it. It has been suggested that some former smokers should be invited to speak to us, but we do not know whether that will happen.

Helen Eadie: Have you seen any videos or plays about smoking?

Simon Hunter: A few pupils performed a show called "Sex, drugs and rock and roll", which showed what can happen if people start to smoke.

Helen Eadie: My parents smoked Woodbines, great little cigarettes from the earliest days that I can remember. We lived in a council house in Stenhousemuir. In the winter, my parents would sit in our small living room with the electric fire on, smoking Woodbines. At that time, I was probably a victim of passive smoking, so I know exactly how the petitioners feel.

I support the point that Phil Gallie made about cannabis. I have been told—although I have not been able to have this verified—that cannabis is 50 times more carcinogenic than tobacco. Have you heard that figure cited in the course of your

work on drugs? Is it linked to the rise in the incidence of throat cancer? Richard Simpson, the Deputy Minister for Justice, has promoted the provision of leaflets and information for young people, which is great. It is important that we inform them of health risks, so that they can make informed choices. I am glad to hear that the petitioners are receiving some of that literature, but we need to do more to ensure that it is provided.

Dr Ewing: What do you think about the fact that the Government has accepted cash donations from tobacco companies?

Simon Hunter: I think that it should use that money to build places for smokers so that they have a place to smoke without harming non-smokers.

Phil Gallie: Could I put you on the spot and ask what success you have had at Firrhill High School? Have you been able to get through to the teachers? Do they have a smoking area in the school? Are they allowed to smoke in the grounds or do they have to go outside the grounds if they want a cigarette?

Ron Waddell: The staff are almost all non-smoking and there are no designated smoking areas in the school. I have been in other schools where there is a smokers' staff room that people enter at their peril—it is just a wall of fuf. There are no smoking areas in Firrhill High School, although I am sure that the odd teacher has a fly smoke.

Phil Gallie: The pupils and staff at Firrhill High School deserve to be congratulated on that.

15:45

The Convener: Kenny Gibson MSP is pursuing a member's bill to impose a total ban on smoking in enclosed public spaces. Are you going further? Would you ban smoking in open-air restaurants?

Shona Hogg: When we asked people, they seemed reassured by the idea that we would build other places—enclosed or not—in which they could smoke. The knowledge that they would not be harming other people when they were smoking reassured other people in the school. That is why many people signed the petition. They wanted people to have somewhere to go.

The Convener: That is interesting. Norway is about to ban smoking in all restaurants and pubs. That is a harder line than you are taking. Norway would not allow special smoking pubs or restaurants—it would ban smoking as an activity. Do you think that the Norwegians are too extreme and that some scope should be given to smokers?

Shona Hogg: Yes. There needs to be choice. People should be able to smoke if they want to,

but they should not hurt other people. Smoking should not be banned in all places—special places should be built for smokers. If tobacco is legal and available, people should be able to choose whether they want to smoke. However, people should not have the choice of killing other people through passive smoking.

The Convener: Of course, the owners of restaurants, discos and bars would oppose that proposal because they would have to build twice as much to accommodate two different types of customers. Those owners are likely to tell the Government not to support your proposal.

Ron Waddell: There are always vested interests that will stymie such proposals. That does not mean that the principle is not good.

The Convener: There is a huge vested interest against what you are suggesting, but that does not mean that you should not suggest it. The Parliament should listen to you and I hope that it will.

Helen Eadie: I endorse what the convener said. You should be congratulated on sticking to your guns. I think that you are right to give people choice and to ensure that they have real choice.

I have received papers—I do not know whether you have seen them—that refer to a public places charter website that will include a rough guide to local smoke-free eating and drinking establishments. I do not know the address of the website. Is the Government doing enough to publicise things such as that website? I would like to be able to go to smoke-free restaurants, but I acknowledge that people are entitled to go to places if they want to smoke. My son-in-law smokes. I value his company, but I would like to be able to choose. By the way, I started smoking when I was nine and gave up when I was nine—I had a cigarette in my mouth once and that was it.

Lea Tsui: I do not think that the Government is doing enough to publicise non-smoking areas. I am sure that many people have not heard of the website to which you refer—I had not heard of it either. There have been a lot of Health Education Board for Scotland adverts, but that is about all the publicity in relation to passive smoking. There should be more publicity to increase awareness of passive smoking.

The Convener: That concludes the questions. Thank you for your presentation. The petition was presented in partnership with the Parliament's education service and a video of the petition was made. We are talking to the pioneers of a future generation of petitioners. By the time that they come to vote in the Scottish Parliament elections, I hope that the public petitions process will be fully established in the Parliament and that most citizens of Scotland will take advantage of it.

Dr Ewing: There is not a smoker among them.

The Convener: Yes. There is no doubt that if smoking cannabis can be banned, smoking tobacco in restaurants can be banned. I thank the petitioners for their presentation and for their able answers to the questions. The committee will now discuss what to do with the petition and the petitioners are free to listen to that discussion.

The paper from the clerk points out that the UK Government and the Executive are opposed to an outright ban on smoking in public places and prefer to go down the pro-choice road. However, the petitioners pointed out that they are not entirely against choice. It is suggested that we write to the Executive to seek its formal view on the issues that the petition raises and to ask for details of the progress of the initiatives that are aimed at restricting smoking in public places. It is also suggested that we write to the cross-party group in the Scottish Parliament on tobacco control to ask for its response to the petition and that we send a copy of the petition to Kenny Gibson MSP, who is trying to get a member's bill through Parliament.

Dr Ewing: I thought that the first statement in the suggested actions, that an outright ban "cannot be justified", was rather controversial.

The Convener: That is the UK Government and Executive position. We can question that position.

Dr Ewing: That is the Government's view, but given the amount of money that the Government receives in donations from organisations with an interest in tobacco, we should comment on that view. Perhaps the Government should not take that attitude.

Will Kenny Gibson's bill be affected by the lack of assistance with drafting that is a result of our nearing the election? That situation affects members who propose bills at this stage of the Parliament's life. I am a lawyer, so I could have a bash at drafting a bill myself if I was told that the clerks were not available. Can we ask Kenny Gibson how his bill is getting on?

The Convener: When we send a copy of the petition to Kenny, we will ask him to write back to explain the position of his bill and to say what the chances are of it becoming legislation.

Helen Eadie: I support the suggested actions, which are reasonable. I say to Winnie Ewing that the issue is not whether a ban can be justified. There is a strong climate of opinion in Scotland that people have the right to smoke. People whom I represent say to me strongly that they want the right to continue to smoke. The young people who spoke to us say that they want to have a smoke-free environment and to allow smokers to continue to smoke. Politicians must recognise that all

people have rights. The question is how to balance those rights.

I do not think that the limited assistance with drafting bills is related to the coming election. There is a high volume of bills and a limit to the energy and time commitment of the staff. Winnie Ewing might have the answer in her own hands, which is to investigate whether it is feasible or practical to use expertise from outwith the Parliament to draft bills. However, the limit on bills has nothing to do with the election.

The Convener: When the Executive responds, it will have to give a justification for its opposition to a total ban.

Dorothy-Grace Elder: Winnie Ewing mentioned the Executive's view that a ban cannot be justified. Can we ask the Executive outright whether that view has any relation to the £10 billion a year that HM Treasury makes from tobacco? Might that be a tiny clue to the reason behind the Executive's view?

The Convener: I suspect that we would have to write to the Treasury to confirm that figure.

Dorothy-Grace Elder: It is around £10 billion, although sometimes it is as low as £7 billion, which is when the Treasury gets worried.

The Convener: I do not think that the Executive will have that information. We would have to ask the Treasury how much it receives from the sale of tobacco.

Dorothy-Grace Elder: The Executive claims that it gets the money from the Treasury. I am sure that the Executive has that information because, as members will remember, it gave millions of pounds from tobacco revenue to health.

The Convener: We can ask the Executive whether it is able to comment on the amount of money that the UK Treasury receives from tobacco tax.

Dorothy-Grace Elder: We could ask for an update. Perhaps a figure for the past five years would be more relevant. The amount has gone up and down because of the number of illegal cigarettes that have been imported. I wonder why the Government is terribly concerned about illegal cigarettes—perhaps because it means that it is losing tax. What a dreadful thought.

The Convener: We could certainly ask for that information.

Phil Gallie: To be honest, I think that we would be wasting our time and the youngsters' time if we wrote to the Scottish Executive. All we need to do is to consider some of the areas that are now smoke free. For example, when one airline decided to become smoke free, others followed. Because of passenger choice and pressure from

the industry, it is now almost impossible to find an airline that allows anyone to smoke.

Moreover, many restaurants have become totally smoke free. People look in, see that there are no ashtrays on the tables and either stay or leave: that is their choice. Instead of wasting our time with the Scottish Executive, we should write to the licensed trade, hotels and restaurants associations in Scotland and other organisations responsible for such enclosed spaces and stress the youngsters' view that there should be choice in this matter. It might ultimately mean that pubs will have "Smoking" or "Non-smoking" signs on their doors and that individuals will be able to choose which to go through.

The Convener: I am unhappy to say that going to the Executive would be a waste of time. The petitioners have asked for a legal ban, which only the Executive and the Parliament can impose.

Phil Gallie: But how far would such a legal ban go?

The Convener: There is no problem in writing to the four main representative bodies of the hospitality industry.

Helen Eadie: It has already been done. A charter was introduced in 2000 with the support of the main representative bodies for the licensed, tourism and hospitality sectors in the UK and has been adopted by 1300 businesses in Scotland.

The Convener: Well, we could still write to those bodies for their response to the petition. That might be useful.

Phil Gallie: I should also point out that tobacco is a legal substance. How can the Scottish Executive or the UK Government say that it is all right to have tobacco and—as Dorothy-Grace Elder pointed out—take money from it and at the same time not allow anyone to smoke it anywhere?

The Convener: We are not saying that people cannot smoke it anywhere. We are just saying that they cannot smoke it in restaurants or places where others might be affected by passive smoking.

Phil Gallie: What is the definition of a public place?

The Convener: A pub, restaurant, disco, café and so on.

Phil Gallie: A park?

The Convener: No. That is not an enclosed public place.

Helen Eadie: Phil Gallie has answered his own question. The point is all about persuading people and highlighting the fact that 6 million people

across Europe have died from cancer.

The Convener: The point is also about giving the petition the priority that it deserves. In order to progress it, we will ask the Executive—as suggested—and the hospitality industry for their comments. Are members agreed?

Members indicated agreement.

The Convener: I thank the petitioners for their attendance and for submitting a very good petition.

Crime Accounts (Publication) (PE504)

The Convener: The third petition is PE504 from Mr and Mrs James Watson, on convicted murderers profiting from their crimes by selling accounts of them for publication. I welcome Mr and Mrs Watson and Wendy Robinson to the meeting and apologise for the great delay in reaching this petition. I believe that Margaret Watson will make an opening statement.

Margaret Watson: I thank the Public Petitions Committee for giving us this opportunity to highlight the lack of legal rights within the judicial system when convicted families or members of their families sell accounts of their crimes for publication. Having read our submission, the committee will be more than aware of the horrendous effect that such publications have had and are still having on our families.

As the legal system stands, innocent murder victims and their families are denied their basic human rights to live free from persecution and aggression. We met a Home Office official called Mrs Keating on 14 May to discuss all the issues that we have raised with the committee. She went to great lengths to point out to us that, under the European convention on human rights, to which the Government is a signatory, convicted murderers and members of their families have the right to free speech and freedom of expression.

Mrs Keating also pointed out that convicted murderers must be allowed to make a living and that, if they chose to write about their crimes, that was their right. It seems to us that our dear children's right to rest in peace and our right to try to find some kind of peace of mind are not covered by the European convention on human rights. The convicted murderers and certain unscrupulous journalists know that we, as the innocent murdered victims' families, are powerless to take legal action against them when they deliberately publish false or misleading statements as facts. They say that the pen is mightier than the sword; convicted murderers have learned to use both with the same deadly effect.

16:00

Prime Minister Tony Blair used his position to stop the publication of Ronnie Kray's diaries as

those diaries would have embarrassed certain MPs and members of the royal family. We can only trust that the committee will make a very strong recommendation to the Scottish Executive on our behalf, demanding that we are given the legal right to pursue false and misleading statements that are published by convicted murderers, unscrupulous journalists and publishers.

The Scottish Executive has stated that it is putting the victims of crime at the heart of the legal system. We urge the Public Petitions Committee to take a stand on convicted murderers profiting from their crimes by selling their stories for publication at the clear expense of their innocent murdered victims.

In conclusion, I would draw the committee's attention to articles 2, 4, 6, 8 and 15 of the European convention, on the legal rights of victims of crime.

The Convener: I mentioned three names—I did not notice that there were four of you.

James Watson: The fourth person is Sandra Sullivan.

The Convener: Thank you—it is important to say that so that the official reporters can get it on the record.

Phil Gallie: I declare an interest in that I have been quite closely involved with Mr and Mrs Watson and I know the tragic circumstances that arose.

You have mentioned the European convention on human rights and you feel that it gives more solace to the criminal than to the victim.

Margaret Watson: We actually call it the European convention on offenders' rights because it takes no notice of the needs of victims of crime.

Phil Gallie: Given that the convention exists, and that the Parliament is signed up to it, how should the Scottish Executive act to curb the activities of convicted criminals—people who may have committed the most horrendous of crimes—making life worse for the people who were nearest to the victim?

Margaret Watson: Article 2 of the convention states clearly that everyone has the "right to life". When people write stories that are not true or are factually incorrect, we are powerless to combat them through the courts—mostly for financial reasons. We are the ones who suffer again, and deaths are being caused in innocent murdered victims' families. As members know, I have given plenty of details to each MSP. I have e-mailed them and written to them. I am disappointed to say that not many have responded, but those who have responded fully support what I am saying.

Unfortunately, supporting us is not good enough; we need legislation that will allow special courts to be set up. That is not for profit, because we are not looking for personal gain.

Phil Gallie: One purpose of sending people to prison is to try to rehabilitate them. The prison authorities therefore have a responsibility to give prisoners training and to encourage them to do something useful when they come out of prison. If someone is set on being a writer, prison authorities will help them to do that. Should there be strict guidelines to ensure that any writings by someone still in prison steer well away from the crime or crimes that that person has committed?

Margaret Watson: They are helped with their writing. Paul Ferris's social worker, whose services are paid for by the public, helped him to write three books, one or two of which have been published. The social worker in question has been able to retire on profits earned from the sale of those books. The public money that is spent in such cases should be used to help victims of crime to rehabilitate themselves.

In a letter that I received in January, Mr Wallace stated quite clearly that the victims of crime do not have the right in law to receive help from social services. Offenders must receive such help, because we want to rehabilitate them. Where is the rehabilitation for innocent victims of crimes and their families? We cannot have such double standards. I hope that the committee will push for the Scottish Executive to change its position on providing help to victims of crime. In particular, we should not have to be revictimised by offenders writing and profiting from untruths. If they want to be writers, there are plenty of other subjects about which they can write.

Helen Eadie: Will you say more about how the legislation in America that prevents convicted murderers and members of their families from profiting from their crimes was introduced?

Margaret Watson: I do not know the exact date on which the legislation was introduced.

Helen Eadie: That does not matter.

Margaret Watson: I know that in some states, when a book or magazine from which an offender will profit has been published, a special committee that has been set up to help victims writes to victims' families to inform them of that. If they wish, victims' families may pursue the offender, their publisher and anyone who is involved in writing the book or story for the resulting profits. I believe that in America victims' families are allowed to benefit personally from such situations and are given funds to sue the offender. We do not want such powers. We seek not blood money but justice.

Dorothy-Grace Elder: This is a very impressive and carefully worked-out petition. It would not stop someone speaking or writing.

Margaret Watson: We know that we cannot do that.

Dorothy-Grace Elder: Yes—that is a tragedy. You have worked out that you have a right to vet the copy of articles in advance and that offenders have no right to benefit monetarily from writing about their crimes.

The petition refers to

“convicted murders or members of their families”.

Would you not want to add associates of offenders to that list? If the measures called for in your petition were to become law, the associates of an offender might want to exploit the fact that they were not covered by that legislation.

How old was your daughter when she was murdered?

Margaret Watson: She was 16 years old.

Dorothy-Grace Elder: It is unusually vile for a villain to write about a crime committed against a 16-year-old. I am a journalist of long standing, and I would not touch a story of that sort with an extension barge pole.

The petition would not inhibit people's freedom to write. The petitioners seek merely the right for victims' families to see material written by offenders, so that their wounds are not reopened searingly and inaccurately. You are aware that in England a working party has been set up on the subject of criminals' memoirs, but we do not know when it will report.

Margaret Watson: The report should have been published, because I, along with the other witnesses present today, have had two meetings with the Home Office on that subject.

Dorothy-Grace Elder: The fact that a working group has been set up does not prevent us from considering the issue in a Scottish context.

Margaret Watson: I am aware of that. Our previous meeting was with Mrs Keating, who is now in charge of the working party.

Wendy Robinson: The original working party, which was chaired by Betty Moxon, was disbanded and she was supposed to report to ministers. The working group accepted a statement from Victims' Voice, the organisation to which all of us belong. We were told that Victims' Voice was the only organisation to submit a statement, but because we were persistent the group accepted that statement from us. When I phoned up to ask what the working party would recommend to the ministers, people refused to tell me. I could no longer speak to any of its members

or to Betty Moxon because, I was told, the working party had disbanded.

We had hoped that something would be put into the Proceeds of Crime Bill, which is currently being debated in Parliament, but that bill deals with only money laundering and drugs money. It does not include criminal memoirs, despite the fact that, after the Mary Bell case, Jack Straw had said that the legislation should be strengthened to prevent what is happening at the moment.

Margaret Watson: After a meeting that I had with the Home Office in 1991, I received a letter from a Mr John Gilbert. In his letter, Mr Gilbert made it perfectly clear that, by January of this year, I should get a personal reply from the Home Office on the progress of the working party on offenders who profit from their crime. I have heard no word from the Home Office, despite having repeatedly e-mailed and written to it. Unfortunately, Mr Gilbert has moved on to another department and no one seems available or willing to tell us how far the working party has proceeded. However, we are not interested in the Home Office case at the moment. We think that it is time that Scotland took a stand on rights for victims. Scotland should make us proud by showing the Home Office how things should be done.

Dr Ewing: Perhaps I should apologise, but we already have good judges and good sheriffs in the courts. However, they need a law that they can administer. The judges and sheriffs do not have the law that you want. I do not want to be a wet blanket, but special courts just will not happen. We already have courts. All that we need is a law to implement the things that you want. Why should we need special courts? They will never happen because they would require a whole lot of new judges. I think that you should direct your energy to campaigning for a victims' charter, especially on the points that you have raised.

Margaret Watson: A victims' charter has been established in England for quite a few years now. At the end of the day, the matter boils down to this: we do not have the funds to take legal action if things are left as they are. We cannot pursue the matter without a special court. No one can take legal action unless they are the Prime Minister or royalty or someone with money behind them.

Dr Ewing: I sympathise with you on that. I did not mean a voluntary charter but a law that would provide rights. I am sorry if I did not make that clear. If the law gave victims specific rights, you would not need money to go to court. You may have misinterpreted what I said.

The harassment that you have suffered is incredibly awful. It is difficult to know what to do when we have a press that loves printing bad stories and scandal and horrible stories instead of

publishing good news. I am afraid that that is the tabloid press, but there you are.

Oddly enough, Scots law has dealt with the press in some ways. For instance, unlike under English law, when a person is charged under Scots law, the press may not publish anything except the name of the person and the fact that he was charged on such and such a day. That is absolutely enforced in Scotland, but it is not enforced in England. That shows you that the law can be tough if need be. The problem is that you do not have the law that you require. With all respect, I think that to go down the line of wanting special courts will be to waste your time. However, you make some valid points about people who profit from their crimes.

The points that you make about profit are valid. The other problem that arises, which may not be popular, is that some people in prison claim that they are innocent. Although perhaps 80 per cent of people who are in prison claim that they are innocent and we know that they are not, we also know that one or two are innocent. The Birmingham six were released when it was clear that the authorities had taken the six nearest people and put them in jail for a long time. Such people probably feel that they have the right to continue to state the case that they are innocent. That is a problem. An offender could claim that they were innocent—that would not apply in your case.

16:15

Margaret Watson: That would not apply in many of the cases that we have dealt with over the years. We have dealt with other people who have unfortunately suffered at the hands of the press, but we have usually managed to sort out the matter by speaking to the editor of the paper. In such circumstances, the press want another angle so that they can print another story rather than an apology.

Dr Ewing: The situation is made worse.

Margaret Watson: It makes families defend their loved ones, because the press want another angle. The newspaper obtains another story at the expense of the victim.

Dr Ewing: It is unclear when the working party that has been established in England will report and whether that will be timeous. We have a copy of an unsatisfactory letter that was sent to you. It does not even say when proposals will be made. Even when they are, they will go to consultation and we will not know whether a separate Scottish consultation will be held. That is unsatisfactory.

What you suggest would make for a pretty complicated law. I do not see it happening quickly.

The Convener: We are trying to make progress. We have a mass of petitions to deal with after this one. We must make reasonable progress and ask questions.

Helen Eadie: I will dwell on the letter from the Home Office, which is important. According to all the correspondence, the working party met six times and involved representatives of the Scottish Executive. It produced a final draft document, which is with Home Office ministers. Do you know what position the Scottish Executive has reached? The civil servants have done their job. It is now for politicians to make a political decision.

It seems that progress is being made. The letter makes the reasonable point that the Scottish Executive does not want to duplicate efforts that have been made nationally. Do you agree? Is it sufficient to accept that the documents have all been prepared and are waiting for political decisions?

I may have misheard you, but I think that the time scales are in John Gilbert's letter. The letter was written on 3 May 2001 and he said that he expected an announcement about the Government's

"views on possible changes to the law before the end of this year."

If that is the case, some announcements should have been made before the end of last year. Were any announcements made?

Margaret Watson: No. We have repeatedly contacted the Home Office. Obviously, we want to be informed at every stage, but we understand from our meeting on 14 May with Mrs Keating that the working party is not discussing offenders profiting from selling accounts of their crimes. It is more concerned with drugs issues. Mrs Keating made that clear when we spoke to her, because she kept referring to the European Court of Human Rights. We wish to refer to that court's case law on victims' rights—our rights to live free from aggression and from being revictimised. It is clear in the European convention on human rights that we should be allowed that. I believe that the Scottish Executive has agreed to that. Legislation to uphold those rights should have been introduced at the beginning of the year. I have a copy of the convention here.

Helen Eadie: I take it that the working group is considering criminal memoirs. It says:

"the Scottish authorities consider that it makes sense to allow the Home Office work on criminal memoirs to be completed before considering what action they should take in Scotland."

To me, that implies that criminal memoirs are being considered.

Margaret Watson: We have gone over that with

Mrs Keating at great length and I can assure you that she kept on about the drugs issue. That seems to be the main issue for the Home Office.

Wendy Robinson: It was thrown back at us that, to get what we wanted, we must strive harder, we must go and see the minister and we must do more. Mrs Keating said that criminal memoirs were not covered by the Proceeds of Crime Bill and would not be. The legislation is not there. She said that the Home Office had discussed adding a clause to existing legislation, but she did not say which legislation and would not go into further details. However, she said that it was up to us to continue to put the pressure on. We have worked so hard, but we are sent away and told to do some more work, which is why we are here today. We came to you because we felt that you were listening.

I understand what you mean when you say that, if the issue is to be discussed in the Westminster Parliament, you need not bother to discuss it here. However, I agree with Margaret Watson that there is no reason why you should not take the lead. I really do not see why you cannot suggest a clause that could be added to legislation.

I do not know what the situation is in Scotland, but I read in 1998 that criminals cannot write stories or memoirs for publication before six years have passed since the crime. I cannot seem to find any more on that, although it was reported in a national newspaper.

The Convener: No member of the committee is qualified to answer that question directly, but we can get the answer for you from the Scottish Executive. I assure you that we shall do that.

Wendy Robinson: In Margaret Watson's case, the person had a story published within a year. In my case, the period was about three or four years.

The Convener: We cannot answer your query off the top of our heads, although we can have the issue clarified for you. The line that we were getting from the Scottish Executive was that the working group had concluded its work and had made recommendations to ministers in the Home Office, who were considering the recommendations. We understood that an announcement would be made and that there would then be a public consultation, followed by changes to the law. You are suggesting that that is not the case.

Wendy Robinson: We understood from our meeting with Mrs Keating that the Government had decided not to do that. She could not tell us anything. She was not saying, "Yes, this is it." All she said was that the Government had thought about adding a clause. It was thrown back at us that we should do something more.

The Convener: It is perfectly clear to us that the Proceeds of Crime Bill does not cover memoirs and that there is no intention that it should. However, there is a separate process to introduce another bill to deal with the issue at some point in the future.

Wendy Robinson: We have nothing in writing.

Margaret Watson: We are extremely disappointed, as Mrs Keating said that we would be.

Wendy Robinson: I was told that we could not know what the working party was recommending to the ministers. All that we were told was that we would be disappointed. We were not told any more and we did not get any more out of the meeting with Mrs Keating.

Dorothy-Grace Elder: How long have you all been working individually on the issue?

Margaret Watson: Since a year after I lost my daughter.

James Watson: That was April 1991.

Wendy Robinson: In my case, since 1993.

Sandra Sullivan: I have been working on the issue since 1992.

Dorothy-Grace Elder: All of you are parents and relatives of victims and you have been working on the memoirs issue all that time.

Sandra Sullivan: Yes.

Wendy Robinson: I would just like to add one thing that has not been mentioned. There is press interest in the publications because of the notoriety of the crime, not because the people are good writers or have any particular talent. They may have talent, but that is not what is selling their books—their books are selling because of the notoriety. Our theory is that, although we cannot prevent them from writing, they will be more reluctant to write if we can take away any profits.

Dorothy-Grace Elder: Some of them will be more reluctant.

The Convener: That is a good point. Thank you. That was harrowing but excellent evidence. It certainly opened my eyes and gave a different spin from the line that we are getting from the Scottish Executive. When we receive petitions, we naturally make initial investigations. We will pursue the matter with the Scottish Executive. You are welcome to stay and listen to what the committee decides to do with the petition.

The suggested action is that we write to the Executive to get the formal response to what the petitioners are proposing. The Executive will deal with that, along with Winnie Ewing's point about special courts. We will also ask for an update on

what is happening with the Home Office working group. We must clarify when it is likely to begin consultation and whether the consultation will be UK-wide or separate in Scotland. We should ask the Executive specifically why it is not taking the lead. The working group was set up in England in 1998 and has made no progress over the past four years. It is not good enough to say that we will wait for the group to report; we should ask the Executive to respond to the lack of progress over the past four years and say that people in Scotland are not prepared to wait any longer. We should ask the Executive to do something about the situation.

Dorothy-Grace Elder: We could write to the Home Office directly, asking it about—among the other things that you have suggested—the clause that has been mentioned. Which legislation would that clause be added to? How would it be worded? That stuff seems to have fallen away completely.

The Convener: We could do that. However, the information seems to be in an internal working document that is not for the public. The group will not even give it to us.

Dorothy-Grace Elder: We could try and see how secretive and fudgy the group is.

The Convener: The best way would be to approach the group through the Scottish Executive, asking the Executive to use its leverage to get information.

Dr Ewing: The matter is devolved.

The Convener: Yes, but the Home Office document is an internal working document for England and Wales.

Dr Ewing: Do you not think that, because of the time delay, we should demand that we get on with our own document?

The Convener: Yes. That is a separate issue from the one that Dorothy-Grace Elder was raising.

Dorothy-Grace Elder: The Home Office mentions the law in Scotland. If it was not willing to let us know the broad outline of the document, that would be shocking. I suspect that nothing is happening—that the Home Office is not progressing the issue at all.

Helen Eadie: I agree that we should write to the Scottish Executive. We should also ask it whether it has seen the draft consultation document. The paper that the clerks have prepared says that the Home Office

“highlights that draft recommendations of a Home Office working group set up in 1998 to review the scope of the law to deal with offenders who profit from their crimes, are still being considered by Ministers”.

I hope that Scottish ministers are considering that document as well. We could ask whether they are in our letter to the Executive.

The Convener: The ministers are always talking about joint ministerial meetings. We can ask whether the issue has been on the agenda of any joint ministerial meeting between ministers of the Scottish Executive and the Home Office and, if so, when the documents will be made available to the committee and other committees of the Parliament.

Helen Eadie: Yes. That would be good.

The Convener: If the issue has not been on the agenda of a joint ministerial meeting, we can ask why not.

Dorothy-Grace Elder: We are told by the Home Office:

“The working party met on six occasions in all.”

Is that all, in four years?

The Convener: That refers to the civil servants. We are talking about whether ministers have discussed the issue.

Helen Eadie: The letter tells us that that part of the work is completed.

The Convener: We must use our influence with the Executive—such as it is—to get as much information as we can and return to the issue when we have got a reply. It would be remiss of the Scottish Parliament to wait for the Westminster Parliament to make progress, because it is clearly not making progress on the issue and does not seem to intend to.

Helen Eadie: You always say that we should give ministers the benefit of the doubt, convener. Let us establish the facts. The papers indicate that a lot of work has been done and that it is now just a matter of clarifying where we are in the time scale.

The Convener: Absolutely. Is it agreed that we write to the Executive in those terms?

Members indicated agreement.

The Convener: We will keep the petitioners informed; as soon as we get a reply, we will let you know what it is. Thank you for your evidence.

William Wallace (Statue) (PE506)

The Convener: We move to the rest of the new petitions, for which the petitioners are not present. The first is from Mr Frank Harvey, on the subject of a statue of William Wallace. He asks the Parliament to take steps to erect a statue of William Wallace, Scotland's national hero, outside the new Parliament building in Edinburgh.

The paper gives a background to all the statues of William Wallace in Scotland and refers to the fact that Phil Gallie—no less—has lodged a motion to issue a posthumous pardon to William Wallace for the charge of treason made back in 1305 when he was executed. I understand that a petition on that subject is being made ready for submission to the Parliament.

The recommendation points out that the Parliament is developing its own arts strategy for the new building at Holyrood; it is suggested that we agree to provide the petitioner with details of the arts programme. We could also send a copy of the petition to the Scottish Parliamentary Corporate Body asking it to consider the request as part of its consideration of the arts strategy for the new Parliament building.

16:30

Helen Eadie: Could we also send the petition to John Home Robertson, Linda Fabiani and Jamie Stone, who are the drivers of that project?

The Convener: Yes. Is that agreed?

Members *indicated agreement.*

Roads and Pavements (Adoption by Local Authorities) (PE507)

The Convener: The next petition is from Mr Dan McRae on behalf of the Menzieshill action group. The petitioners are calling for the Scottish Parliament to take the necessary steps to review the current system for the adoption of roads and pavements by local authorities and to consider whether the system needs to be modernised.

The situation in this case is unusual because one department in Dundee City Council—the housing division—owns unadopted roads and refuses to upgrade them because of the cost involved. As a result, the council's transport and environment department refuses to include those roads in its winter maintenance programme. People find it difficult to understand how the council cannot upgrade its own roads as part of the winter maintenance programme.

It is suggested that we write to the Executive and the Convention of Scottish Local Authorities, seeking their views and asking them to indicate whether there are any plans to review the system for the adoption of roads and pavements. Both organisations can be asked to comment on whether they are aware of other situations in which local authorities have experienced financial or other difficulties in relation to the upgrading of roads and pavements to adopted status in local authority housing areas to allow adverse weather maintenance to take place. We could also ask them to comment on the options that are available

to residents of local authority properties who find themselves in the situation described by the petitioners. I suggest that we also ask Dundee City Council to respond to the petition.

Helen Eadie: I support that. Having been the roads and transportation spokesperson for Fife Council, I know that the problem was common. The council's budget to deal with the problem was £60,000 a year. The council divvied up that money by inviting owners and residents to make applications for 25 per cent grants towards the cost of the upgrading to an approved council standard before the road would be adopted. That would not happen in new developments, because a bond has to be laid down.

Phil Gallie: Helen Eadie referred to owners. There is a problem, which dates back some time, on unadopted roads, particularly in respect of private properties. However, in this case, we are talking about a local authority housing estate. Is that right?

The Convener: Yes.

Phil Gallie: Is that common practice?

The Convener: The unadopted roads are owned by the council's housing division.

Dorothy-Grace Elder: That is very unusual.

Helen Eadie: We need to establish whether all the houses are still owned by the council or whether individuals have bought some of them.

The Convener: Dundee City Council can make that clear in its response.

Helen Eadie: If individuals have bought properties, that would complicate matters further. People who have bought their property from the council have responsibility for the roads.

Phil Gallie: When you write to COSLA, could you find out the extent of the problem? How many such roads are there in Scotland?

The Convener: We have said that we will ask whether COSLA is aware of other cases in which local authorities have experienced financial difficulties when they wanted to upgrade unadopted roads and pavements.

Dorothy-Grace Elder: The situation is unusual. One of the major problems with privately owned unadopted roads is abandonment of cars and fly tipping. If that is happening on council unadopted roads, why are the councils doing nothing about it? Is it costing them extra money not to adopt those roads?

The Convener: I know the petitioner, so perhaps I should declare an interest. Dan McRae is a friend of mine.

I do not think that what Dorothy-Grace Elder

mentions is an issue in this case. The roads do not get winter maintenance because the housing division owns them. The housing division does not have the money to upgrade the roads.

Is the proposed action agreed to?

Members indicated agreement.

Planning Legislation (PE509)

The Convener: Petition PE509 is from Mr Russell Craig and is on planning procedures. The petitioner is calling for the Parliament to take the necessary steps to change planning procedures and review the legislation affecting certain types of development such as crematoria. The petition has been prompted by the petitioner's experiences of the planning process regarding an application by the crematorium company for the erection of a crematorium car park, gardens of remembrance and off-site roadworks at land at Greenhall Estate in Blantyre.

South Lanarkshire Council held a hearing on the application and is going ahead with the development of the crematorium. The application has now been referred to Scottish ministers for scrutiny on the basis that the proposed development does not accord with the development plan and that the council has a financial interest in the development. The council has confirmed that all letters of objection are to be forwarded to the Executive for consideration of the council's decision.

The petitioners have submitted correspondence, minutes of South Lanarkshire Council's planning committee and various objection letters, together with some articles on the environmental impact of the crematorium. Those items are available to committee members.

In a response to a parliamentary question, Margaret Curran confirmed that the Executive has no current plans for a review of or revisions to the planning criteria for crematoria by amending the Cremation Act 1902 or by any other means.

The committee is unable to intervene or interfere with the individual planning applications that prompted the petition. The application is being dealt with through the established planning process. Ministers will have the opportunity to scrutinise South Lanarkshire Council's decision to grant the application.

However, it is suggested that it would be appropriate to copy the petition to the Executive and ask it to ensure that the petitioner's concerns are taken into account as part of that process. The Executive has recently announced that it has no plans to review the planning criteria for crematoria and it is therefore further suggested that we ask the Executive to provide full details of the

reasoning behind that position. We would then be able to get back to the petitioners.

Dr Ewing: As a former MP for Blantyre, I have been lobbied extensively about the matter, although it is no longer in my area. The petitioners dispute all the points that South Lanarkshire Council has made. We cannot intervene, as the convener has said. However, there are few public parks in Blantyre, which is a pretty depressed area. The development intends to take away part of a public park. There must be legislation that protects the public park. Could we put that into any letter that we write to the Executive? There is a real shortage of space in Blantyre. South Lanarkshire Council says that the remaining land would continue as it is, but the park is very valuable and much used. The issue is very sad.

The Convener: When we write to the Executive about its position on not reforming the Cremation Act 1902, we could ask it to state its position on legislation protecting public parks.

Dr Ewing: There is legislation to protect public parks.

The Convener: Is there any way in which the petitioners could get access to some legal right to challenge what is going on?

Dr Ewing: The petitioner disputes that there is a need for the crematorium. He bases his argument on statistics. There are two crematoria already. The petitioner also states that the development would affect residential properties. That has all been said already. However, we might consider the public parks aspect.

The Convener: Yes, we can ask for that information.

Helen Eadie: The notes that the clerks prepared mention the environmental impact of crematoria. Did anything in the documentation that we received raise specific health concerns? I am not aware of anything, but I wondered whether there might be something in that.

The Convener: A lot of the advice touched on the health aspect. That advice is available to any member who wants to see it. Of course, we can see it before we get a response back from the Executive. Is the proposed course of action agreed to?

Members indicated agreement.

Cape Wrath (Military Exercises) (PE510)

The Convener: The next petition is from Ms Monica Ross on the Cape Wrath bombing range. The petitioner is calling for the Scottish Parliament to urge the Executive not to agree, during its consultations with the Ministry of Defence in July 2002, to the use of Cape Wrath ranges for large-

scale military exercises. Apparently, a concordat exists between the Scottish Executive and the Ministry of Defence listing the areas of mutual interest about which they consult. The concordat is attached to members' papers.

Behind the issue seems to be one of the NATO exercises. Those exercises apparently previously took place in Puerto Rico, but, following the death of a person in a tragic accident there, they now seem to be taking place in Cape Wrath, which is causing the local residents considerable concern. They are asking the Scottish Executive to use its position relative to the concordat to do something about the issue. Dorothy-Grace Elder wants to contribute before we move on to discuss the suggested action.

Dorothy-Grace Elder: I was involved in this matter when the United States Navy was first asked in, two years ago, after it had been kicked out of Puerto Rico. That was not just to do with the dreadful fact that somebody was killed following a misfiring; the navy managed to flatten a range of hills in Puerto Rico. The shell cases contained various very dangerous substances that they should not have contained.

The American navy was given the heave-ho out of Puerto Rico and, wondering where else it could go, appealed to the Ministry of Defence in London. The MOD found a nice place for it and said, "Come down and shell Scotland." That place was Cape Wrath. The MOD also invited the navies of other countries, including the Spanish navy. The American navy started shelling in February or March 2000.

In answers to parliamentary questions on the matter, ministers were not willing to discuss the damage at Cape Wrath, but popped up just to say that the issue was reserved. I had to ask questions about the seabirds—that was all that was permissible. The then Minister for Transport and the Environment, Ms Sarah Boyack, told me that the seabirds were fine and positively loved American shells being hurled at them. We got no proper answers.

The position on the cape is extremely disturbing. I called it a cape just now, but I remember seeing an American navy map that showed Cape Wrath as an island.

Dr Ewing: Yes—it was referred to as an island.

The Convener: For the record, I should say that Jamie Stone MSP wanted to be here to lend his support to the petition. He is unable to attend, but wanted his support to be noted. I am also asked to point out that Dorothy-Grace Elder's views on Puerto Rico and the transfer of activities to Cape Wrath have been challenged by the Ministry of Defence.

Dorothy-Grace Elder: Naturally it would challenge them.

The Convener: The MOD takes a different line.

Let us turn to the suggested action. The existence of the concordat means that the committee and the Parliament may discuss the issue. It is suggested that we write to the Executive, seeking its comments on the petition and in particular asking it to clarify the extent to which it is consulted by the Secretary of State for Defence about the authorisation of military exercises such as those proposed by NATO and the US at Cape Wrath and the nature of those discussions.

It is also suggested that we ask whether, under the terms of the concordat, the Executive may disagree to the use of Scottish military establishments for such exercises where it feels justified in doing so; whether the Executive will highlight the strong local opposition to large-scale military exercises at Cape Wrath during any relevant consultations that take place with the secretary of state; and whether it has been advised that the Cape Wrath base is being considered by the US as an alternative to Puerto Rico and, if so, when a final decision on the matter is likely to be made. Is that course of action agreed to?

Members indicated agreement.

Dr Ewing: I have a point to make on tourism. A military exercise is to be held off the cape in July. Tourism is not big in that part of Scotland as it is. July is the worst possible month to pick. Could the exercise not be held in some other month if the US Navy has to hold it?

The Convener: We could also ask the Executive to comment on the likely impact of the exercises on the tourism industry.

Dorothy-Grace Elder: And on the environment.

Helen Eadie: There is some irony in the fact that one of the ministers in the Ministry of Defence had to cancel a consultation meeting with members of the Scottish Parliament because of a lack of interest on the part of members of the Scottish Parliament. Such issues could have been discussed with the MOD then.

Dr Ewing: How do we know that? When was that?

Helen Eadie: It was just before Christmas.

Dr Ewing: What does that mean? Did we get an e-mail or something?

Helen Eadie: No. Every member of the Scottish Parliament got a glossy letter, inviting them to that consultation meeting.

Dorothy-Grace Elder: If I had seen that letter, I would have been at the meeting like a ferret up a drainpipe. I am convener of the cross-party group on nuclear disarmament—so I would have thought that I might have been excluded.

Dr Ewing: I do not remember the letter.

Phil Gallie: Were you referring to Adam Ingram MP, the Minister of State for the Armed Forces?

Helen Eadie: Yes—Adam Ingram.

Phil Gallie: I think that I got that letter. There was also a second one.

Helen Eadie: Yes, the second letter has gone out.

Phil Gallie: The summer months are probably used because we are talking about the American navy and not the Royal Navy, which is capable of going to sea in rougher weather.

The Convener: That is a very anti-American comment from someone in the Conservative party.

Dr Ewing: We must object to the use of Cape Wrath. It is a serious matter.

The Convener: We have agreed the action, so we will move to current petitions.

Current Petitions

Allergy Clinics (PE276)

16:45

The Convener: The first of the current petitions is PE276 from Lothian Allergy Support Group, which calls for the establishment of specialist NHS allergy clinics in Scotland. At our meeting on 23 October, we considered a response from the Executive and agreed to seek the views of the Scottish Medical and Scientific Advisory Committee and the petitioners on that response. We have received a response from the advisory committee, although members may notice that it came from the Scottish Executive health department, which administers the advisory committee.

The response refers to the fact that the Executive has made available £60,000 to each of two trusts to fund two posts—one in North Glasgow University Hospitals NHS Trust and one in Lothian University Hospitals NHS Trust—but that Lothian has been unable to take up that offer. North Glasgow University Hospitals NHS Trust has recently been able to add another £77,000 to move the situation on.

The advisory committee examined the situation again, and has suggested that Aberdeen should be encouraged to apply for funding to establish a managed clinical network for the north of Scotland, that Lothian should be encouraged to set aside funding for the same kind of network for the south of Scotland, and that the networks should restrict tertiary referrals to complex cases only; less complex cases should be dealt with in the normal way through primary care. The advisory committee also suggested that the two managed clinical networks should pool resources and prepare a handbook or guide on the provision of immunology and allergy services in Scotland.

The petitioners responded directly to the Executive, rather than to the committee. A copy of their letter has been obtained, and copies are attached to members' papers. The petitioners want a fact sheet to be distributed to all medical practices and hospitals, listing allergy symptoms, the location of allergy clinics and details of reference material. They also commented on the need to take particular care when dealing with patients with multiple allergies, and expressed the view that new clinics should be set up in Tayside, Oban and the Borders.

We have a confused picture. On the one hand, two tranches of £60,000 were made available to trusts in Glasgow and Edinburgh, but only one of those trusts has taken up the money. We also have a suggestion from the advisory committee

that other trusts could provide a north-of-Scotland service and a south-of-Scotland service, but the relevant trusts have not responded to that suggestion. Finally, the petitioners are asking that other issues be taken into consideration, such as the provision of a fact sheet and three separate clinics in Tayside, Oban and the Borders.

We can either take the view that the Executive has started to move on this issue and that no further action is required, or we can take the view that the issue has still not been resolved and that it should be referred to the Health and Community Care Committee. It is up to members.

Dr Ewing: Lothian Allergy Support Group states that there is an allergies professor at the University of London. Can we suggest that the Executive provide funds for an allergies professor? Would that be one way to get the process moving? People could take his opinion, and he could give guidance and fact sheets.

The Convener: The only problem that I have with that suggestion is that we would be dealing with the petition, rather than handing it on. The subject committees deal with such issues.

Dr Ewing: But the point is that we do not have such a professor.

Helen Eadie: I sympathise with Winnie Ewing's comments, but the convener is correct too. We have not received an adequate answer. I know that there is a long list of work to be done, but the system should pay more attention to the petition. I have had an interest in the subject of the petition for some time. Steve Farrell kindly sent me a copy of a report on this matter. A lot more should be done with regard to allergies and food intolerances, because there is no doubt that they make a dramatic difference to people's lives. We should pass the petition to the Health and Community Care Committee, even if it has to wait in a queue.

The Convener: There is another alternative. We could write back to the Executive pointing out the contradictions that have emerged between the information that we have received about the tranche of funding that has been made available to Glasgow and Lothian, the recommendations of the advisory committee and the views of the petitioners. None of that seems to gel, so we could ask the Executive how it will clarify the situation.

Dorothy-Grace Elder: It is encouraging that the Executive offered £60,000 to each trust immediately after the report came out, so it must be discouraging to the Executive that that offer was not taken up. Quite often, money is not taken up if it is only half what is needed for a consultant and there is not enough for a medical secretary. One wonders what on earth the trusts spent the money on, if they accepted it. Where has it gone?

This is a good piece of research—

The Convener: The trusts did not get the money. They would get the money only on the condition that they made other money available.

Dorothy-Grace Elder: Fair enough.

The Convener: Is it agreed that we write back to the Executive asking it to clarify the situation?

Members indicated agreement.

Sewerage and Industrial Waste Water Industry (PE473)

The Convener: Our next petition, from Mr Brian Turner, is on the subject of airborne bacterial contamination. At our meeting on 12 March 2002, we agreed to write to the Scottish Executive, the Scottish Environment Protection Agency and East of Scotland Water. We subsequently learned, through the clerks, that we would be better writing to the Health and Safety Executive than to SEPA, because the HSE has direct responsibility for this issue. We now have responses from the Executive, East of Scotland Water and the Health and Safety Executive.

The critical thing to note, from both the Executive and East of Scotland Water, is that five claims from former employees who were based at Seafield, which relate to health problems, are before the courts. For that reason, neither the Executive nor East of Scotland Water is willing to comment on the detail of the petition. The Health and Safety Executive sets out a detailed description of its role in trying to ensure that workplaces are safe for the work force.

Given the fact that those court cases are pending, it is possible that any view that the committee expresses would be interpreted as prejudicial to them. It is suggested that we agree to defer further consideration of the petition until the courts have ruled on the cases that are before them. I do not think that we can do anything other than that. Is that agreed?

Members indicated agreement.

Heavy Metal Poisoning (PE474)

The Convener: The next petition, from Mr James Mackie, is on the subject of heavy metal poisoning. The petition calls for a study into the links between heavy metal poisoning and childhood illnesses. The Executive's response expresses the view that there is no compelling scientific evidence either for the contention that there is an increase in the incidences of the conditions to which the petition refers—such as autism and attention deficit hyperactivity disorder—or for the implication that the alleged increase is linked to heavy metal poisoning in

children. The Executive's response explains why it thinks that that is the case.

The Executive does not think that there is any value in going ahead with an inquiry at this time, because bodies are continually reviewing the use of heavy metal. It does not support the action that the petitioner proposes. We have two options. We can either agree with the Executive's argument, say that the position that it has taken is reasonable and take no further action on the petition, or we can take the view that the issues that the petition raises merit further investigation and refer the petition to the Health and Community Care Committee.

Phil Gallie: There was no scientific evidence for BSE. In this case, there is only no "compelling scientific evidence", but there might be some evidence. You have made the point time and again in this committee that we are at the initial stages of investigations. It would be wrong for us not to pass the petition to the Health and Community Care Committee for it to make a judgment.

The Convener: I do not feel qualified to say whether the Executive or the petitioners are right. I just do not know.

Dr Ewing: It seems that we are talking about old lead pipes. There is legislation about new lead pipes, but that applies only to pipes from a certain date. We cannot do much about old lead pipes.

Dorothy-Grace Elder: The petition also refers to old lead paint and contaminated land.

Helen Eadie: If we want to adopt the precautionary approach, we should refer the petition to the Health and Community Care Committee on the basis that—I heard this saying today and you were right to point it out, convener—absence of evidence is not evidence of absence.

The Convener: Are we agreed that we should refer the petition to the Health and Community Care Committee?

Members indicated agreement.

Aphasia (PE475)

The Convener: The next current petition, from Cecilia Yardley, is on the recognition of aphasia. The petition calls on us to recognise that aphasia is a life-disabling condition; to develop and produce accurate measures to recognise, treat and support aphasic people; to improve the quality of service that is available to aphasia sufferers; and to support service development, based on accurate measures of need and performance.

We agreed to seek the Executive's views and have now received a response. The suggested

action sums up the situation pretty well when it says that, unfortunately, the Executive's response does not fully address the issues that are raised in the petition and simply gives basic details of the current position, which it clearly considers to be satisfactory.

The Executive's response does not answer the specific questions that the committee asked about the accuracy of current data that are available on aphasics, nor does it address the committee's request for an indication as to whether the Executive has any plans for research on aphasia with a view to gaining an accurate picture of the number of people who suffer from the condition and how a treatment strategy might be developed. The Executive appears to respond to questions on the quality and consistency of treatment that is provided and the accessibility of speech therapy in primary and secondary care simply by saying that those matters are the responsibility of NHS health boards.

Therefore, it is suggested that the committee may wish to agree either to write back to the Executive to express its disappointment with the response and ask the Executive to provide full answers to the questions, or to refer the petition to the Health and Community Care Committee. I suggest that we should agree to the first option. Are members agreed?

Members indicated agreement.

Planning System (PE479)

The Convener: The next petition is PE479, from W E Campbell, which calls on the Parliament to take the necessary steps to allow local communities to become more involved in the planning process.

The petition was prompted by a sand and gravel quarry development at Strathnairn, near Inverness. The petitioners believe that the initial refusal to grant planning permission for the quarry development is likely to be overturned following an appeal by the site developers and a subsequent public inquiry.

The committee agreed to seek the Executive's views. A fairly detailed response has now been received on how the current planning process works, the role of the parliamentary ombudsman in the planning process and the role of ministers and their accountability to the Parliament for their final decisions. The response also gives details of procedures that are followed in respect of development near archaeological sites. The committee has been informed that the reporters are to re-open the inquiry to consider new material evidence that has come to light since they issued their letter of intention to grant the appeal.

It is not appropriate for us to become involved in

individual planning cases and the petitioners' specific concerns about the planning application for a development in their local area can be taken into account only as part of the established planning process. That process is still on-going and if any party is concerned about the decision that is finally reached, they can take it before the courts.

The Executive has made it clear that the issue of improved community involvement in the planning process was addressed in its recent "Getting Involved in Planning" consultation, the results of which will be published in the summer. It appears satisfied that the current role of the ombudsman system in planning matters is satisfactory and that the procedures for dealing with development near archaeological sites are adequate.

In the light of the Executive's response, it is suggested that the committee may wish to agree to defer a final decision on the petition until the Executive's response to its recent planning consultation is published and its proposals for improved community involvement are announced. That may take some time, but it is suggested that it would not be appropriate for any further consideration to be given to the petition while the Executive is actively considering the key issue that has been raised about the involvement of individuals in the planning process.

Helen Eadie: I agree. I read the "Getting Involved in Planning" document the other week and am disappointed about the consultation process and some of the feedback from that. I was disappointed to read that the intention appears to be to continue with the plan not to have third-party rights of appeal.

The Convener: That is true. We have received lots of petitions on that issue, but PE479 is not directly about that—it is about individuals becoming involved.

Dorothy-Grace Elder: This morning, I was involved in a different case at the Transport and the Environment Committee. The words "involving the public" are a bit skewed. The poor public are involved and bother to go along to inquiries umpteen times. Is not the point that one person can overturn an elected council and the views of the public? That is happening in Glasgow at the moment. Representatives of every party, councillors and community councillors, are against the cattle incinerator at Carntyne and there is a similar situation in this case. The council does not want the development and turned it down four years ago. The case went to appeal at the Scottish Office. The same system exists. One reporter from Edinburgh can make a decision that goes against every public interest. The poor public are involved, but they are beating their heads against a brick wall.

Helen Eadie: A similar situation is on-going in Aberdour in my constituency. I agree that this is an important issue.

17:00

The Convener: The Executive's response to its consultation is critical. The Executive claims that it wants to improve the system so we should wait to see what improvements are suggested. Is that agreed?

Members indicated agreement.

Judicial Appointments (PE485)

The Convener: The final current petition, PE485, from James Duff, is on the subject of judicial appointments. Members will recall that the petition called on the Scottish Parliament to take the necessary steps to ensure that a solicitor cannot be appointed a resident sheriff in the same court in which they practised law as a solicitor.

In its response to our letter, the Executive states, fairly, that it has made good progress in approving the membership of the judicial appointments board and that it hopes to announce the membership before the end of May, although that has not happened, to the best of our knowledge. Importantly, with regard to the petition, the Executive points out that, as a general rule, no new sheriff would be offered appointment to a court where he had practised as a solicitor. If the sheriff seeks to move to such a court, there are safeguards such as consultation with the sheriff principal and the Lord President and the fact that they cannot become involved in cases in which they were actively involved as solicitors. If it is found that they have done so, that is a ground for appeal.

The Executive's response appears to have met the petitioner's requirements. I suggest that we agree to copy the Executive's response to the petitioner and take no further action. Is that agreed?

Members indicated agreement.

Electronic Petitions

The Convener: The paper on electronic petitions describes the system as it operates through the partnership arrangement that we have with Napier University's international teledemocracy centre, whose e-petitioner system facilitates electronic petitioning in the Scottish Parliament. The paper points out that ours is the only committee of any Parliament in the world that has a system whereby it can accept electronic petitions and that other petitions committees are following our progress.

The suggestion is that we move to the next stage by trying to bring the system in-house as part of the Scottish Parliament's website. However, that involves technical issues that we will be unable to resolve until we move into the new building at Holyrood. Therefore, we need an interim solution, the key to which is the proposal, outlined in paragraph 8, that the international teledemocracy centre should, for a period, take all the actions that would allow us to begin the process of integrating the e-petitioner system into the Scottish Parliament's procedures. There would be a one-off charge of £25,000 plus VAT. To get funding for that, we have to apply to the civic participation fund, as the move will widen civic participation in the Parliament. It is recommended therefore that we make that bid to cover the cost of the one-year contract. The conveners group will consider the next round of bids on 18 June. Bids must be submitted by 7 June.

Do we agree that a bid be made on the grounds that I have outlined?

Members *indicated agreement.*

Phil Gallie: Can I just clarify that Napier University will do the work and will benefit from the money?

The Convener: That is correct.

Phil Gallie: I have no problem with the proposal, in that case.

Convener's Report

The Convener: Members will recall that we agreed to have a special meeting with representatives of Scottish Natural Heritage and the Advisory Committee on Sites of Special Scientific Interest. Representatives from SNH can make it on the proposed day, but those from the advisory committee are not available until after the recess. As we felt that it was important for them to attend the meeting, the clerks and I have decided to hold that meeting after the recess.

We have two meetings to go before the recess. The next is on 18 June at 11 o'clock in the chamber. The Social Justice Committee has the room before us, but has promised to be out by 11. The final meeting will be on 25 June at 10 o'clock in the chamber.

I thank members for their attendance.

17:04

Meeting closed.

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