

PUBLIC PETITIONS COMMITTEE

Tuesday 10 September 2002
(*Morning*)

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2002.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 10 September 2002

Col.

NEW PETITIONS	2151
Care Homes (PE522)	2151
Strategic Planning (Fife) (PE524)	2153
Early-years Education and Child Care (PE523)	2159
Public-private Partnerships (Schools) (PE526 and PE527)	2168
Scottish Public Services Ombudsman Act 2002 (PE525)	2177
CURRENT PETITIONS	2179
Sites of Special Scientific Interest and Special Protection Areas (Arran, Barra and Yell) (PE462, PE463 and PE464)	2179
Scottish Transport Group Pension Funds (PE500)	2208
Bus Services (Regulation) (PE420)	2211
State Hospital (PE440)	2211
Stranraer (Protection of Jobs) (PE451)	2212
Autistic Spectrum Disorder (PE452)	2213
Animal Welfare (Red Deer) (PE455).....	2214
Miscarriages of Justice (Aftercare) (PE477)	2217
Planning Legislation (PE484)	2218
Separated Children (National Register) (PE492)	2219
Domestic Abuse (Advertising Strategy) (PE496)	2220
Cape Wrath Military Range (PE510).....	2222

PUBLIC PETITIONS COMMITTEE

13th 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)

*attended

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Joanne Clinton

LOCATION

The Hub

THE FOLLOWING ALSO ATTENDED :

Carol Ball (Unison)
Sue Bell (Advisory Committee on Sites of Special Scientific Interest)
Dennis Canavan (Falkirk West)
Professor Donald Davidson (Advisory Committee on Sites of Special Scientific Interest)
Sharon Duncan
Professor Bob Furness (Advisory Committee on Sites of Special Scientific Interest)
Elizabeth Hunter (Unison)
Simon Fraser (Scottish Natural Heritage)
Ian Jardine (Scottish Natural Heritage)
Jeff Knight
John Markland (Scottish Natural Heritage)
Mr Alasdair Morrison (Western Isles) (Lab)
Nora Radcliffe (Gordon) (LD)
Professor William Ritchie (Advisory Committee on Sites of Special Scientific Interest)
Iain Smith (North-East Fife) (LD)
Mr Andrew Welsh (Angus) (SNP)

Scottish Parliament

Public Petitions Committee

Tuesday 10 September 2002

(Morning)

[THE CONVENER *opened the meeting at 10:08*]

The Convener (Mr John McAllion): Welcome to the 13th meeting in 2002 of the Public Petitions Committee. I apologise for the short delay in beginning the meeting, which was due to technical faults. We have received apologies from Rhoda Grant. All other members of the committee are present.

New Petitions

The Convener: I invite the committee to agree to the suggestion that we consider first petition PE522, which is fifth in the list of new petitions. That will allow Andrew Welsh to speak to PE522, in which he has an interest. He has to get away to attend an important meeting of the Scottish Parliamentary Corporate Body. Is that agreed?

Members indicated agreement.

Care Homes (PE522)

The Convener: Petition PE522, which comes from Ms Carol Main, concerns care homes for young physically disabled people in Scotland. The petition calls on the Parliament to encourage the Executive to investigate and remedy the lack of care homes for young physically disabled people in Scotland, including the Tayside area.

Mr Andrew Welsh (Angus) (SNP): I thank the committee for its assistance in allowing me to go from meeting to meeting. Carol Main of Carnoustie, who submitted petition PE522, has asked me to formally present it to the Public Petitions Committee.

Carol Main's sister, Linda Milne, was forced to move out of a nursing home in Dundee after the owners decided that, because of a lack of resources, they would stop providing care for those who are termed "young physically disabled". The company ended its registration with Tayside NHS Board for the care of young physically disabled people after deciding that it did not have the resources or the accommodation to care adequately for them.

Although Linda Milne is now in an alternative nursing home, Ms Main believes that there is a general problem with regard to the provision of

care homes for this vulnerable group in our society. Ms Main collected 1,200 signatures supporting her cause and presented them to me in June, just before the recess. This is the first meeting of the Public Petitions Committee at which the matter could be raised.

Although the situation happened in the Tayside area, the issue affects the whole of Scotland and I would appreciate this committee's consideration of the matter and any action that members might want to take on the petition.

The Convener: Carol Main has telephoned the clerk to pass on some other information. She said that care homes for the physically disabled should have provision for elderly, young and special needs patients and for respite care. She believes that the administration and registration rules should be changed to give priority to those with special needs.

The recommended action is that the Public Petitions Committee should write to the Scottish Executive seeking its comments on the issues raised in the petition, with a particular request that it clarify its position on the provision of care homes for young physically disabled people. We could also ask for comments on the adequacy of the current provision by local authorities, including an indication of whether supply meets demand.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Those recommendations are adequate and I am sure that the responses will clarify the Executive's position.

Helen Eadie (Dunfermline East) (Lab): Perhaps we should ask the Convention of Scottish Local Authorities for its opinion.

Dorothy-Grace Elder (Glasgow) (Ind): We might want to ask the Executive for any statistics on the increase in the number of young physically disabled people in Scotland. For various reasons, that number has risen. Young cancer patients have complained about the lack of suitable facilities and I should point out the considerable number of young men who have been seriously damaged in motorbike accidents.

Ms Main has highlighted a serious problem and one can only imagine the extra stress that was caused to Ms Main by collecting 1,200 signatures and campaigning on the issue. I offer her my congratulations on getting her campaign as far as this committee.

Dr Winnie Ewing (Highlands and Islands) (SNP): Ms Main is not alone. I know of three similar cases in Moray and in other parts of the Highlands. There seems to be a gap in provision in relation to young physically disabled people. When you visit care homes, you often find one such person among all the old people, which is not a good situation.

Phil Gallie (South of Scotland) (Con): Like Winifred Ewing, I am aware of a number of similar cases in my area. Recently, I wrote to the private-sector care homes to find out what their attitudes were. They acknowledge the difficulties of slotting young people into care homes, especially those that have a lot of elderly people.

About two years ago, the Scottish Executive published a paper recommending that some types of accommodation for the care of young people with severe disorders should be closed within a set time scale. I apologise for being unable to remember the document's name, but I will provide the clerk with that information later. In that regard, I mention the excellent Arrol Park facility in Ayr, which has been given a deadline of 10 years in which to close. That is irrational and I would welcome this petition being used to raise that matter with the Executive. I would like to know whether it is having second thoughts.

The Convener: Do we agree to the recommended action that I described and to the suggestions that we consult COSLA, seek the Executive's statistics on the increase in the number of young physically handicapped people and ask the Executive for information about any proposed closures of facilities for young physically disabled people?

Members indicated agreement.

Mr Welsh: Ms Main has turned to the Scottish Parliament to make her case and has been listened to by this committee. On behalf of Ms Main, I thank the Public Petitions Committee for its consideration and its action, which will help a vulnerable group.

Strategic Planning (Fife) (PE524)

The Convener: The next petition that we will deal with, PE524, is from Iain Smith MSP and calls on the Scottish Parliament to urge the Scottish Executive to reconsider its proposals, contained in the review of strategic planning, to replace Fife as a single planning area.

Perhaps I should declare an interest, as I represent Dundee, which Iain Smith seems to think has ambitions to take over parts of Fife.

10:15

Helen Eadie: And I should also declare an interest, as I am a supporter of Iain Smith's petition.

Iain Smith (North-East Fife) (LD): I thank the Public Petitions Committee for this opportunity to present my petition.

The petition arises from the Scottish Executive's review of strategic planning, which has

recommended that the existing universal two-tier planning system be scrapped and replaced by a system where strategic development plans would be required only for the four largest city regions and their hinterlands. The proposal would mean that, instead of a structure plan covering Fife, the region would be split, for purposes of strategic planning, between the proposed city regions covering Edinburgh in the south and Dundee in the north.

When the Scottish Executive published its proposals for consultation in June 2001, it became quickly apparent that that proposal was unacceptable to people in Fife. Fife enjoys many unique advantages, both geographic and administrative, which makes it ideally suited to be a single planning area. Bounded by the Tay in the north and the Forth in the south, the kingdom has always enjoyed a distinctive identity and a sense of belonging. That was strongly reflected in the fight for Fife that took place in the 1970s, when it was proposed to divide Fife between the proposed new Tayside and Lothian regions. That fight was won and today Fife is unique in having coterminous boundaries for local government, the health board, the local enterprise company, the police force, the fire service, the area tourist board and many local voluntary organisations. That makes Fife ideally placed to take full advantage of the new community planning powers that are proposed in the Local Government in Scotland Bill. For those powers to be as effective as possible, it makes sense for strategic planning to operate in the same boundaries.

More significant than that is the need for the planning process to command the support and confidence of the communities that it serves. That need will not be served by the Scottish Executive's proposals. From the moment the Scottish Executive published its proposals to split Fife, I began to receive letters of objection from my constituents—many more than one might expect on such a topic. Community councils expressed concerns and there were even packed public meetings. Fife council presented a strong case against the splitting of Fife for planning purposes.

Because of the strength of public feeling, I decided to organise the petition that I am presenting today. More than 3,000 of my constituents have signed the petition and I continue to receive letters of support. The strength of feeling in Fife is also reflected in the results of the public consultation. Of the 331 responses received, 151 were from Fife and 127 of those were from private individuals.

In January, I obtained a members' business debate on the subject and received cross-party support from Fife MSPs and MSPs on the Mid Scotland and Fife list. The minister promised to

consider the concerns that were raised. I am disappointed that, despite the clear rejection of the proposals by Fife, the minister has decided to press ahead with the unwelcome plan to create city regions. I do not believe that the minister or the Scottish Executive have demonstrated their case for change. Indeed, the Scottish Executive's "Review of Strategic Planning—Conclusions and Next Steps" document excludes the Fife responses from its analysis when it claims 43 per cent support for city regions. In fact, a closer analysis shows that, even if you exclude the Fife figures, only 12 of Scotland's 32 local councils support the proposal and that many other respondents, apart from those from the business sector, do not support the proposal.

The Scottish Executive should be required to justify its case in the Scottish Parliament and I therefore request that the Public Petitions Committee refers the matter to the Transport and the Environment Committee and asks it to carry out a full inquiry into the review of strategic planning, particularly as it affects Fife.

The Convener: Thanks. Members may now ask questions.

Dr Ewing: In the committee's papers, I find the suggestion that the committee might consider that the views of those who are opposed to the proposed city region strategic planning proposals as they affect Fife have already been taken into account. Could you comment on that? Is that true? It does not sound as if it is true, from what you have said.

Iain Smith: I do not think that that is true. The analysis of the "Review of Strategic Planning" carried out by the consultants appointed by the Scottish Executive specifically excludes Fife and puts a separate Fife response into the document. In considering the breakdown of responses to the city regions proposal, it considers only those responses outwith Fife. That does not suggest to me that the views of the people of Fife have been fully taken into account by the Scottish Executive.

Dr Ewing: So would you simply say that the people who are opposed to the proposals have not had their views taken into account?

Iain Smith: I would say that that is the case.

Phil Gallie: I declare an interest as a former Fifer and somebody who is dead keen for Fife to retain autonomy under the different stages of local government reorganisation.

We are talking about strategic planning, one of the major considerations of which is transport. Without a doubt, Fife is a transport corridor between Edinburgh and the south of Scotland, and Dundee and the north. I am particularly concerned about the situation across the Forth, as the Forth

road bridge is totally inadequate to meet transport needs. Do you feel that there would be some advantage in having a joint strategic approach to transport, particularly on the Forth crossings?

Iain Smith: Yes. There is no doubt about that. When Helen Eadie and I were members of Fife Council we strongly pressed the case for a strategic transport authority to cover Fife and the Lothians because of the importance of those transport links, but that does not imply that a single authority should also deal with strategic planning. Planning issues are wider than transport, and the interests of the rural communities that I serve would not necessarily be well served by a city region based on an urban area. The two issues are linked, but separate. It is possible to work together between authorities without having a formal single structure plan that crosses local authority boundaries.

Phil Gallie: I recognise your position on rural issues, as you represent North-East Fife. What about the west of Fife, where there could be conflicting interests between the Lothians and west Fife in relation to economic development? Is that a fundamental concern for you?

Iain Smith: I cannot pretend to speak for west Fife; I am sure that Helen Eadie is able to do that better than I. However, there is a question as to where the power will lie in those city region planning authorities. Another of the Executive's proposals is that the strategic plans will be site specific, whereas the present ones are not site specific. The city regions might determine which areas will get industrial, retail or housing developments, which would then be imposed on local authorities. Because such developments would be part of the structural plan, local authorities would have no choice but to include them in their local plans. That could make it more difficult for Fife to consider its overall economic development plans, because developments proposed by the city region could go to West Lothian, East Lothian or some other area. There are major concerns for Fife's ability to properly develop itself as an economic development area. Significant job losses were announced in Fife only last week. If we had the city region plan, there is a danger that Fife would not be able to respond to such announcements.

Helen Eadie: My question follows on from the first part of Phil Gallie's question. Do you think that enough cognisance was given by the Scottish Executive and the consultants to the fact that there is already a south-east Scotland transport partnership? That partnership embraces all the local authorities from Fife right down to the Borders and from Falkirk in the west right over to East Lothian. The Transport (Scotland) Act 2001, which was put on the statute book by Sarah

Boyack, also created the Forth Estuary Transport Authority, which deals with transport links across the Forth bridges. Do you agree that not enough emphasis has been given to those two quite powerful organisations in the context of the strategic transport planning that would be required?

Iain Smith: That is a valid point and I agree with everything that has just been said.

Dorothy-Grace Elder: You referred to the Transport and the Environment Committee. Would you also want to seek comments from the Local Government Committee?

Iain Smith: I am a member of the Local Government Committee, so I would be more than happy for the petition to be considered there as well. However, I know that that committee has a fairly packed agenda for the rest of the session. I would like to refer the petition to the Transport and the Environment Committee because that committee has specific responsibilities for land use planning and would therefore be the most appropriate committee to consider it.

Dr Ewing: I would like to ask about the time scale. The "Review of Strategic Planning" was published in June 2001 and the "Review of Strategic Planning—Conclusions and Next Steps" was published in June 2002. In response to that second publication, you have come to this committee at the earliest time. What about the intervening time? Was opposition expressed throughout the period between the two publications?

Iain Smith: Yes, it was. That is reflected in the document, which shows that there were 151 responses from Fife, compared with 331 in total across the whole of Scotland. Those totals do not reflect the large number of letters that I received and passed on to the Scottish Executive as part of my response. I am sure that other Fife MSPs did likewise. In January, we had a debate on the issue in Parliament, which also reflected the strength of feeling in Fife on that issue.

The Convener: At that debate in January, the then Deputy Minister for Social Justice was not convinced by the arguments put by the Fife MSPs. However, the Executive has said that it is prepared to consider the matter and work closely with stakeholders in determining the question of boundaries and whether there should be additional strategic planning areas, one of which might be Fife. Is there any indication of the timetable to which such a decision might be made?

Iain Smith: The impression that I got from the "Review of Strategic Planning—Conclusions and Next Steps", published in June 2002, is that the Executive has already dismissed the possibility of Fife being left as a single strategic planning

authority and that it will go for the four city regions, although other consultations will take place. As far as the overall time scale is concerned, I believe that the changes will require primary legislation, and that is not planned in the current session. There is therefore time to consider the matter further, but the Executive appears to have dismissed Fife's being retained as a strategic planning authority.

The Convener: Let us be clear about this. Appearing to dismiss Fife's claim is not the same as being on the record as dismissing Fife's claim. Is there an on-the-record dismissal?

Iain Smith: The "Review of Strategic Planning—Conclusions and Next Steps" clearly concludes, when referring to the four city regions:

"We intend to adopt this proposal."

In my view, if it is adopting the four city regions, it is almost immediately dismissing the possibility of Fife's being retained as a single planning authority. It could not operate on that proposal without including Fife's planning under Edinburgh or Dundee.

The Convener: To implement those proposals, would the Executive have to introduce primary legislation?

Iain Smith: Yes.

The Convener: That is not planned before the election, is it?

Iain Smith: I understand that there is no place in the current legislative timetable for this session.

The Convener: So legislation could not be introduced before next May?

Iain Smith: That is the earliest that it could be introduced.

The Convener: Thank you. You are free to stay and listen to the discussion about what to do with the petition.

Members will see that two lines of action are open to the committee. One is to say that, despite what Iain Smith has told us this morning, we believe that the Executive has fully taken into account the views of those who objected to the proposal and to take no further action.

Alternatively, we can decide to take action on the petition. Again, there are two courses of action that we could take. The first is that we could, as Iain Smith suggested, refer it directly to the Transport and the Environment Committee and perhaps copy it to the Local Government Committee for information. The second is that the Public Petitions Committee could start the initial work on the petition by writing to the Scottish Executive and seeking its comments on the issues raised by the petition. In particular, we could ask

for detailed information, as outlined in the committee papers, including an update on the current position regarding the implementation of strategic planning; an indication of whether Fife is likely to be considered as one of the areas to be identified as an additional strategic planning area under the new structure; details of stakeholder involvement announced by the Executive, which is aimed at resolving concerns over boundary issues in Fife; and an indication as to the time scale for a final decision on the matter. Which course of action would members like to take?

John Farquhar Munro: The alternative recommendation would allow a wider debate, and I would advise the committee to adopt that recommendation.

Dr Ewing: When public authorities ride roughshod over historical pride, there are bound to be strong feelings. That is evidenced by the very fact that we talk about the kingdom of Fife. There are not many kingdoms around, but Fife has always been referred to in that way and there is an enormous amount of support for retaining that identity. However, it looks as if the Executive has ignored that history. It is a foolish man who ignores history, because it will never go away. The kingdom of Fife will still exist and its people will be resentful. I would not be surprised if, at the next election, someone stands as the candidate for the kingdom of Fife—Fife members beware. This is a serious matter and even the suggested alternative action does not go far enough. We should ask the Scottish Executive to reconsider its decision.

10:30

The Convener: I do not mind, as long as nobody stands as the king of Fife. An old republican like me would take great exception to that.

We are agreed that we should take the initial step of contacting the Executive to find out the information. If we refer the matter to another committee, given the packed agendas that all committees now have, no real action will be taken between now and the election. It is up to the Public Petitions Committee to do something, as other committees do not have the time. Is it agreed that we will write to the Scottish Executive, on behalf of the petitioners, seeking all the information?

Members indicated agreement.

The Convener: I thank Iain Smith for his attendance this morning.

Early-years Education and Child Care (PE523)

The Convener: The next petition is from Ms Carol Ball, calling on the Scottish Parliament to

urge the Scottish Executive to initiate a national inquiry into early-years education and child care, with a view to producing a report and recommendations on the way forward. Carol Ball and Elizabeth Hunter are here to speak to the petition. You have three minutes in which to make your case.

Carol Ball (Unison): Hi. I am Carol Ball, from Unison, and this is Elizabeth Hunter, also from Unison. We thank the committee for giving us the opportunity to speak to the petition.

The petition calls on the Scottish Executive to initiate a review of early-years education and child care, to recognise the sector as a separate profession within education provision as a whole. Why do the petitioners feel that that is vital? Early-years education is not to prepare young children for school, where learning is perceived to begin. A child learns more in the first five years of its life than in any other five-year period. Lifelong learning is a continuum and in the early years it encompasses the balance between education and care. The professionals in the early-years sector enable children to develop, and only the strategies that are used and the support that is given differ as they become more independent learners. The importance of the early-years service in giving children the best possible start in life must be recognised.

Nursery nurses, who are the predominant professionals delivering the service, are appropriately qualified to do so. However, the introduction of a wide range of qualifications has led to confusion both for the professionals who enter the service and for employers. National occupational standards are fragmented, with overlaps and duplications. That cannot be the most effective way to ensure a coherent work force. We need clear job roles linked to appropriate qualifications and identified career progression, which is largely non-existent throughout the profession.

Most European countries recognise and value early-years education and child care as a separate profession. The professionals who work in the sector do so because they have chosen it as their specialism, not because they are not intelligent enough to become teachers and not because they are good at it because they are women. Unfortunately, those perceptions still prevail. We are convinced that our contribution to young children's learning and care helps to lay down the foundations on which children will build for the rest of their lives.

We recognise the Executive's commitment to early-years education and the delivery of quality child care. However, the status of the professionals who work in the sector must be raised. We feel that that will be achieved only if the

sector is recognised as a separate profession. Following the review, we would want recommendations to be made.

The Convener: Thanks very much for an excellent introduction. Do members have any questions?

Phil Gallie: As nobody else has a question, I shall ask one, although I was going to stay quiet on this issue.

On the level of qualifications, we are talking about Scottish vocational qualifications rising up to national standards. The level is rather lower than would be expected of those in the teaching profession. Are you looking for similar gradings to those that exist in the teaching profession, or do you feel that a different type of qualification is needed for nursery teaching?

Carol Ball: There is progression for people who work in the sector, but it is not recognised at the moment. There should also be a specific qualification that goes all the way from foundation level to managing the sector. Nursery nurses can gain a BA in early childhood studies, but that does not enable them to manage a nursery school, because the qualification is not recognised by the General Teaching Council for Scotland as an appropriate qualification.

Dr Ewing: If I lived in a village where there was no care provision for young children and I decided to start a nursery—with no qualifications, but perhaps with a lot of good will—could I do that?

Carol Ball: I believe that you could do that, as no formal qualifications are required at the moment. However, we do not feel that that is the best way in which to produce quality child care. It is vital that youngsters are given the start that they need, which is why the profession should be recognised as I have said.

Dr Ewing: Do you know what proportion of young children in Scotland have access to properly qualified nursery nurses?

Carol Ball: I can answer only from my experience. I am a nursery nurse in a local authority nursery. Unison has approximately 7,000 members in that position. The staffing ratio is 1:10 and nurseries are bursting at the seams. However, I do not have the specific figures.

Dr Ewing: So, many mothers cannot get that service for their young children.

Carol Ball: No. A lot of mothers cannot get the service. It needs to be expanded.

Dr Ewing: So, until there is a rule about children's right of access to the service in their early years, there will be a difficulty, and the sector will not be recognised as a separate profession as long as anyone can enter it. More than a petition is

required: a right of access should be given to all children.

Carol Ball: Yes. There should be a right to access. Following the setting up of the Care Commission, by 2004 anyone embarking on a career in the sector will have to have a qualification. However, the level of that qualification is a matter of concern. We want the matter to be reviewed.

Dorothy-Grace Elder: You remarked earlier that nurseries and nursery nurses do not merely prepare children for school; there are many separate benefits of early-years education and care. I cannot but agree with that. Nevertheless, it is the view of many teachers to whom I have spoken—and it is my view, as a mother who was fortunate enough to get her children into a state nursery school—that there is a big difference between children who start primary 1 after having attended nursery school and those who have not had that benefit. The ones who have attended a nursery school fit much more easily into a school and are happier there. Are you perhaps downgrading your argument by saying that you are not there to prepare children for school? You are there for that as well as for the many other functions that you perform.

Carol Ball: I am sorry if I gave that impression. I did not mean to downgrade the profession. I am saying that it is not a case of a light bulb going on at age 5, when learning begins; a child learns from the minute it is born. Learning should be a continuum, although I know that there are difficulties when children move from primary schools to secondary schools, which I hope that the national debate on the purposes of education will identify. Teachers choose their profession, whether as primary or secondary school teachers. We have chosen to work in early-years education because we think that that education is vital, and we want to be valued and recognised for it. Whatever children learn at that stage should be part of the continuum.

Dorothy-Grace Elder: You also have a direct responsibility for child protection in the early years. You have to be vigilant for abuse, for example, at a stage when it is much more difficult to gain information from a child. Is your responsibility for protecting children from abuse part of your case for saying that your profession should be more highly ranked and given greater respect?

Carol Ball: Yes, I would say so. Some children remain in child care for longer than their parents are at work. They can be in child care from 8 in the morning until 6 at night—50 hours a week.

The Care Commission is talking about raising standards, but only minimum standards, for staffing. A minimum staffing regime does not deliver quality child care. Children need to be

taken out, which reduces ratios and means that we always operate at the minimum.

Dorothy-Grace Elder is right—the job is more complex now. Nursery nurses' salaries and roles have not been reviewed for 13 years. I have a two-line job description.

Dorothy-Grace Elder: Roughly, what is the salary scale for nursery nurses?

Carol Ball: After eight years, with two years' initial training, the top of the salary scale is £13,300.

Dorothy-Grace Elder: That shows how we value children, as well as nursery nurses.

Carol Ball: Yes.

Helen Eadie: Thankfully, in the past 10 to 15 years, nursery schools have proliferated and greater effort has been put into providing day care for infants who are just months old. That is to be warmly welcomed. How does that complicate the bigger issue? As many parents go out to work, very early care is an issue. When I was a member of Fife Council, my colleagues and I used to debate that. Nurses used to be thought of purely in the context of nurseries for children who are four years old; the earlier stage, which is more common now, was not considered. Should the qualifications for dealing with the two aspects be different?

Carol Ball: No. Qualifications should encompass those aspects, because we are dealing with a continuum. A nursery nurse's qualification qualifies them to work with children from birth until the age of eight, so a nursery nurse can enter the primary sector, too. That encompassing qualification is needed to provide the widest picture and to decompartmentalise the sectors.

Elizabeth Hunter (Unison): Part of the qualifications problem relates to students. Colleges are so keen to have people in positions that, sometimes, the calibre of students is not what we are looking for. One college said that one girl was not accepted because she did not have a grade 4 in standard grade English. Another college has a 15-year-old girl as a student. At 15, a person cannot legally baby-sit, let alone work in what I would consider the sector.

Those issues must be considered. If we want to be professional, help must be provided with qualifications and with students. Guidelines must be set, and minimum standards for what is acceptable in colleges should be set. A college tutor told me that equal opportunities meant that people had to be allowed to participate, but I do not have the qualifications to become a brain surgeon, for example, so people should consider what is available.

Phil Gallie: I am becoming slightly concerned. The petition says:

"Qualifications for nursery nurses should be standardised and career progression identified."

That is fine, if a structure exists for those who choose that passage, but what about parental choice? Do you suggest that private nurseries and local authorities should be restricted to employing people from the register that you seek to establish, or could parents send a youngster to a nursery school that is not interested in the qualifications of its operators?

Carol Ball: That is a difficult question to answer. As a professional, I have a vested interest. Parents should have freedom of choice between local authority and private nurseries, but the people who work with their children must be qualified. They need to know what they are trying to achieve. I make no excuses for saying that such people should have a qualification.

10:45

Phil Gallie: By taking that line, you say that parents will lose some choice. Some people have had their own little nursery schools for a long time and seem to be successful and to be meeting a need. I am sure that many such individuals who have been in the business for a long time do not have the qualifications that you mention. Scottish vocational qualifications are relatively new.

Carol Ball: That may be, but obviously such nurseries have not been inspected. They are registered and must meet some criteria to function, but the system is not robust enough to measure the value of such nurseries and the achievements in them. I am not saying that children do not benefit from those experiences, but properly qualified people are needed. Some people think that everybody can do the job. Not until somebody starts the job do they realise the complexities, which are increasing. The profession is becoming more complex and standards must be raised.

Phil Gallie: Why should such a profession become more complex? Some people might have taken children successfully through nursery for years. As Dorothy-Grace Elder said, there is a difference between children who have been to nursery school and those who have not. That could be extended to playgroups, although I know that you will not want to follow that line. Nursery schools have existed for many years and have got along fine. What has suddenly become complex?

Carol Ball: The answer relates to the way in which society has developed. There are more single parents, more breakdowns of family life and drug intake has a high profile. As professionals who work with children, we must deal with all

those issues, which I did not have to deal with when I entered the profession 21 years ago. Developments in society make the job complex.

The Convener: I am trying to get my head round the issues. By the way, Phil Gallie's comments do not necessarily represent the views of all members of the committee.

Phil Gallie: I would not claim that they did—heaven forbid.

The Convener: It has been mentioned that nursery nurses are appropriately qualified but that many others who work in the profession are not. Will the witnesses give us an idea of the minimum standards that the Scottish Social Services Council is likely to accept? What minimum qualifications do people need to work with children in nurseries?

Carol Ball: In local authorities, the minimum standard is SVQ level 3, which is equivalent to the old nursery nurse qualification, or a higher national certificate. The difficulty is that an HNC alone does not meet the national occupational standards, so some components of a national certificate are required. That makes finding out what someone is qualified to do complicated.

The Executive's booklet "Working with Children" says that there are 15 routes to working in the sector. Throughout, the booklet says that some qualifications may be appropriate and that some employers may accept some qualifications. That is unacceptable. Employers should know the appropriate qualifications for working with children. At the moment, they do not.

Some publicity has been generated about councils that have not accepted SVQ level 3, because employers do not know about the combination that is involved. With the demise of the Scottish Child Care and Education Board, which ensured that the qualifications of those who registered with it matched national occupational standards and were appropriate, I am not sure whether the Care Commission will follow suit. I think that the commission will accept reduced qualifications.

The Convener: The Executive's response to your call was that your proposal would impose a rigid qualification framework that left the sector unable to respond to changing employer and employee requirements. That suggests that the Executive wants fairly low qualification requirements to ensure that enough people are available to look after children, whether or not they are qualified.

Carol Ball: I agree that the Executive is probably trying to do that. The petition calls on the Executive to review the position and not to take that line. I have not worked with someone who has an NC. I have trained students who are studying

for that qualification, but I do not know what their jobs will be. Would they only assist a nursery nurse? I am not sure where they would fit in. You cannot play with children's lives. People who are not qualified should not practise.

The Convener: You mentioned the BA qualification. How many people who work in the sector have that qualification?

Carol Ball: There is a lack of opportunities in the sector for people to take higher qualifications, although I cannot give a figure. I know that even if people achieve a higher qualification, career progression is non-existent because there is nowhere for them to go.

Elizabeth Hunter: I know someone in Fife who has the BA, but who was refused when she applied to teacher training college. The problem is not that people do not try to get qualifications. Not everyone with the BA wants to be a teacher, but there is nowhere to go with that qualification.

The Convener: I thank the witnesses for their evidence. They are free to stay and listen to the committee's debate on the petition.

Dr Ewing: The witnesses' presentation was most articulate.

The Convener: Yes, it was first class. The cover note on the petition states that the Executive is trying to increase the number of qualified workers in early-years education and to promote career opportunities in the sector. It is suggested that we write to the Executive to seek its views on the issues that are raised in the petition, with a particular request for details of the Executive's view on the merits of the type of inquiry that the petitioners propose. We might also want to ask the Executive to say whether it has achieved the aims that were outlined in its action plan of 2000.

Given the responsibility of the Early Years National Training Organisation and the National Training Organisation for Sport, Recreation and Allied Industries to develop and review national occupational standards for the sector, we might also wish to seek their comments on the issues, particularly on the petitioners' call for standardisation of qualifications for nursery nurses and for the identification of career progression.

Dr Ewing: When we write, can we take up the point, which was articulated so well, that the nursery experience is not just preparation for school, but also character preparation? I have visited many nursery schools in which there were qualified people. It has been pointed out to me that, for children who are born with a character flaw, such as aggression, the experience of being with other children at that vital age often sorts out the problem. If such children do not go to nursery, the flaw of aggression might be there for ever.

I am a great believer in nursery education. I was not able to get my children into a state nursery school, because working mothers rightly took priority. I accepted that and sent my children to private nurseries. I would like to know—I will try to find out from my colleagues in Europe—what is going on in other countries. In countries that I have visited, all children go to nursery, although I do not know what qualifications are required to work in nurseries there. We take the people who work in nurseries for granted and pay them low salaries. We do not accept that nursery is an experience that all children should have if their parents so wish.

The Convener: We can send with the correspondence a copy of the *Official Report* of this part of the meeting.

Helen Eadie: I support the suggested actions. Might we also seek the views of Children in Scotland, which has done a lot of work on the issue? When I was a member of Fife Council and when I was on the Equal Opportunities Committee, I did a lot of work on the issue. I am sympathetic to the petition. Children in Scotland, which is intensively involved in some of the issues, can give us another perspective and might add to the information that we receive from the Executive.

The Convener: Okay, we will ask Children in Scotland for its comments on the petition.

Dorothy-Grace Elder: As well as the other worrying issues that we have heard about, the covering note to the petition contains a further worrying line. It states:

“however, there is no present requirement for a nanny to hold any such qualification.”

Nannies go into peoples' homes. The controversy is old, but it has not been resolved. We have heard about the poor rates of pay in the sector. I think that the petitioner said that it takes 10 years to reach a salary of £13,800. That shows that we do not value children or the people who care for them. Society puts on a front of being soppy about children, but in reality it is not, because it does not show respect for the people who guide children through their earliest years. Can we include a line in the correspondence about the lack of a requirement for nannies to hold the type of qualifications to which the petitioners have referred?

The Convener: We will refer to that in the correspondence.

Phil Gallie: I am happy to go along with the suggested actions in the cover note. I have reservations about the petition, but I want to see the responses that we receive. However, I distance myself from the talk of setting standards for nannies. The issue of nannies comes down to

parental responsibility and choice. When people put their children into someone else's care, it is up to them to ensure that that individual is capable, suitable and has the correct disposition to look after their children. All the qualifications in the world will not solve that problem. Parents should check the background of the individual to whom they entrust their children. For goodness' sake, we must recognise that parents have responsibilities, that they love their children and that, in the main, they want to ensure that their children are well cared for.

The Convener: The time to argue about that is when we receive the response from the Scottish Executive.

Helen Eadie: Whether we call people nannies or childminders, I am sure that the petitioners would agree that regulations are already in place for such people. Dorothy-Grace Elder made the valid point that the state has a duty to set standards. Children are the flowers of our future. We must ensure the quality of the people who look after them. As the convener said, we can debate that matter later.

The Convener: I am sure that we will return to the argument when we receive the Executive's response. Do members agree to the suggested actions?

Members indicated agreement.

Public-private Partnerships (Schools) (PE526 and PE527)

The Convener: Petitions PE526 and PE527, which call for a review of the use of public-private partnership schemes, are from Mr Jeff Knight, on behalf of the Rayne North Action Group. I welcome Nora Radcliffe, who is here to speak in support of the petitions. I also welcome Mr Knight and Sharon Duncan. They have three minutes to make a statement.

Sharon Duncan: I thank the committee for the opportunity to present our petition. Our protest is not sentimental. The examples that we will offer are local, but the arguments apply to all areas of Scotland. We have received strong support from our small but increasingly cohesive community. The petitions follow on from an initial petition, which had 1,000 signatures, and a children's petition. I understand that the committee has access to those petitions.

The Scottish Executive's intent in funding through PPP was to replace old and crumbling schools with modern, fit-for-purpose buildings. The aim was not to replace successful educational provision in viable, structurally sound schools for economic gain. The First Minister, Jack McConnell, claimed that he would build 300 new

schools, but he did not say anything about closing 600 schools in order to build those 300 schools.

Cathy Jamieson has talked about old and crumbling schools and community access to local amenities, such as halls and playing fields. In our case, Rayne North will lose all its community facilities, not only the school. Old Rayne will keep its village hall, but the playing field will revert back to the original owner, which will mean the loss of a community facility. Logie Dumro will lose its playing field, which is the planned site for the new school. Members will realise why the council's decision is not exactly popular.

Current schools are not being used to their full potential. We would rather see investment in their use than see them close and be replaced by bigger places that will not be used. Equipping an additional room is far cheaper than building a new school.

11:00

Our petitions are based on information from the council. The deeper we got into our campaign to save our schools, the more alarmed we became. The process is unclear and open to misinterpretation and abuse. The figures that Aberdeenshire Council submitted to the Scottish Executive were based on a best guess—those are its words, not ours. In our opinion, the best guess is not good enough for £35 million of public money. The councils have to close down enough schools in order to get the numbers required for a PPP bid to be worth while. In other words, they are going for a one-size-fits-all approach. The councils have been presenting figures to fit the application requirement. The whole point of improving the learning environment is to improve the learning environment, but the council has conceded that the existing education provision is exemplary. All men are equal and all councils are the same—beware.

Jeff Knight: I will add a bit of meat to that. As Sharon Duncan has just said, we focused mainly on figures that Aberdeenshire Council gave us, such as the housing potential for the area, the current school roll and projected school rolls, and population trends and ratios. We also made reference to an extract from the Aberdeenshire local plan, which is a fairly significant document that was not put together overnight.

On housing potential, the council's documentation predicts that 74 houses will be built in the catchment area for the three schools over the next 10 to 15 years; however, the local plan predicts that 138 houses will be built. That is not a huge number, but it means that instead of there being a drop of 27 in the school roll—as the council predicted—there will be an increase of 48. That represents an increase of 30 per cent, as

opposed to a drop of 17 per cent. Despite our having highlighted those discrepancies to Aberdeenshire Council, it continued to include the original figures in its consultation documentation.

We also focused on population trends and ratios. The Aberdeenshire Council figures seem to suggest that people who live five or six miles down the road are more fertile, because they show them to have more kids per household than we do. As Sharon Duncan said, it seems as though the council uses figures that meet its own needs, as opposed to reporting the most up-to-date and accurate figures that are available to it.

Sharon Duncan: The aim of our petition is to ensure that proper audit procedures are put in place. There should be assurances that future bids that the Executive receives will be accurate, to allow informed and safe decisions to be made. We are trying to prevent closures of good, viable educational establishments such as ours in Rayne North and Old Rayne, being based on misrepresentation and poorly informed decisions. We are trying to stop such closures happening for purely financial reasons that are not necessarily apparent from the submissions that the Scottish Executive has received. The greatest predictor of the future is current practice. We want to encourage a more democratic and fair form of consultation.

What if the PPP schools are neither wanted nor needed by the communities they serve, but the council pushes ahead in what it thinks are the best interests of those communities? What if councils abuse procedures for economic gain or rationalisation, rather than using them in the true sense and for the purpose that the Executive intended? There must be safeguards to prevent such occurrences. We are talking about millions of pounds of public money for which checks or balances are put in place.

We rely on the Scottish Executive to be the voice of the people of Scotland and to act in the best interests of the whole of Scotland. Closing viable schools in rural communities and replacing them with new ones—at the expense of awarding money to crumbling inner-city schools—because a council managed to word correctly a bid to the Scottish Executive is not equitable nor is it based on the needs of the people. We are asking the Public Petitions Committee not to let that happen.

Nora Radcliffe (Gordon) (LD): The petitioners have put their case eloquently. I will add a word or two about the background. Without going into the merits or demerits of public-private partnerships, the fact that the costs are fixed means that bids must be of a certain size. For a rural authority that has small rural schools, that means having to bundle things together in order to come up with a proposal, which leads to all sorts of difficulties.

I commend the Rayne North Action Group, which has fought a determined yet responsible campaign. The group was right to highlight shortcomings in the procedures and to bring them to the attention of the committee. If PPP is going to be around, a critical analysis of how it is working and how it could work better is essential.

Phil Gallie: I am concerned that the Scottish Executive seems to have acted in conflict with itself with respect to the acceptance of the local action plan and of the PPP. How much emphasis have you put on that in the course of your past contacts and what has been the reaction to your comments?

Jeff Knight: We have restricted our campaign to Aberdeenshire, but our efforts to highlight discrepancies have been greatly ignored. We do not know where the numbers that were put forward by Aberdeenshire Council came from, but we do know that the numbers that were published by the council's planning department are not consistent with those that were published in the consultation documentation and in the bid. We would like to address that discrepancy. The feedback from Aberdeenshire Council, as with anyone with whom we have tried to speak, has been minimal, to say the least.

Phil Gallie: I do not think that we are permitted to get into the details of the school closures but, if Aberdeenshire Council has deliberately provided two sets of figures, it could be argued that that is bordering on fraud. I wonder how much the same thing happens throughout Scotland and whether Aberdeenshire is a special case. I would like to follow up on that point when the committee discusses the petitions.

Jeff Knight: I am glad that Mr Gallie said that so that I did not have to. I think that Mr Gallie is right: it is cause for great concern. Aberdeenshire Council put in a bid for £35 million and other councils have submitted bids for much more than that. If the practice goes on in one place, I am sure that it goes on in others. Again, I did not want to say what Mr Gallie said.

Phil Gallie: That is what we are here for—to take the buck.

Sharon Duncan: I think that the phrase that we used was "parochial and prejudicial". We steered away from "fraud".

The Convener: When Aberdeenshire Council puts together its bid for £35 million, it must present an outline business case to the Executive. Who checks the figures? Is that done transparently? We assume that the Scottish Executive examines the bid in detail, but do we know whether its attention is drawn to inconsistencies such as those you have highlighted?

Jeff Knight: The Scottish Executive examines the information that is presented to it, but I do not know whether it has the necessary access, or the time, to examine the detail behind it. I feel that the information that is presented to the Executive is perhaps limited, to say the least, and that the Executive acts on what it trusts is the best information available. In the case of Aberdeenshire Council, the information from the local planner was available in the public domain, at least in draft form, well before the bid was put in place. The information was issued as a finalised document about two weeks ago. That represents the best information that the council had available to it at the time—information that it has ignored.

Dorothy-Grace Elder: That is happening against the background of closures of rural schools. A report from seven or eight years ago said that Scotland had lost some 230, mainly primary, rural schools. However, we need a more up-to-date report on that.

You mentioned that, despite the large sum of money that is involved, the figures are based entirely on a best guess. Were the population statistics also based on an alleged best guess? You said that the population of one area was increasing. School rolls are the most difficult thing in the world to forecast because they are left to amateurs—we are all amateurs in that we suddenly produce children. Is more detailed information available on population forecasts for the area, such as for the numbers of incomers? The area is a fevered area for people wishing to settle, who are normally people of child-bearing age. Can more statistics be pinned down so that, by comparing them against those that were used by the council, a knock-down case could be made?

Jeff Knight: As I said, the Aberdeenshire local plan is a huge document, which took a lot of time to put together. The plan details the predicted housing for the Aberdeenshire area through to about 2015. The plan shows huge growth all around our locality, but that growth is not reflected in the figures that have been used in the school bid that was put forward by Aberdeenshire Council's education and recreation department. Obviously, two of Aberdeenshire Council's departments are not speaking to each other.

Dorothy-Grace Elder: So the council did not use the detailed statistics that it had compiled.

Jeff Knight: Absolutely.

Sharon Duncan: The numbers in the bid that went to the Scottish Executive do not add up. Unaccountably, seven children suddenly disappeared from our area—we thought that the council was planning a cull.

Jeff Knight: I was also struck by the fact that the size of the new school is based on the education and recreation department's figures. If the planning department's figures are correct, the planned new school will be too small by the time it is built in 2005. It is interesting that the two schools that the council plans to close would, without any modification, have the capacity to take up the extra roll. For me, the proposal is a complete waste of money.

Dorothy-Grace Elder: It is a shocking situation. The council has the detailed statistics. As far as I know, the planning people are always consulted on such things by the education authority.

Phil Gallie: We are talking about the closure or amalgamation of three schools. Will you comment on the current condition of the fabric of the three schools?

Sharon Duncan: The schools at Old Rayne and Rayne North are fit for purpose and still have additional capacity available. The schools have stood for 120 years and are solid granite-built schools. Without a word of a lie, I can tell you that the local MP and MSPs that we invited to a coffee morning walked in and said, "You're joking. They're not going to close this." The schools glow—they have an internal glow and a traditional glow. The children love the schools and willingly produced their own petition. The schools are windtight and watertight and are fit for purpose.

Phil Gallie: That was the question that I wanted answered. My understanding was that the public-private partnership deals were to improve the condition of Scotland's schools.

Sharon Duncan: That was our impression, too.

The Convener: When the Minister for Education and Young People made the initial announcement, she gave initial approval to 15 different local authorities to carry out PPPs to the tune of more than £1 billion throughout Scotland. That initial approval must now be worked into detailed proposals. Is Aberdeenshire Council at the stage of working on a detailed proposal to put to the Scottish Executive for final approval, or is the proposal already a done deal that the council has voted for?

Jeff Knight: Aberdeenshire Council is currently going through the process of formally consulting the local communities. At the moment, that consultation process is not complete, as several households within the area have not received the consultation documentation, but the council is going through the formal consultation process and the finalised proposal has yet to go to the Scottish Executive. However, we fear that the numbers that will be presented will be misleading to the Scottish Executive and that there is no reason why they will not be misleading in a future bid.

The Convener: I am not saying that it is common in Scotland, but in theory, all 15 local authorities could present the Scottish Executive with inaccurate information in support of PPP bids. The Scottish Executive would come to decisions that were based on inaccurate information that would affect a large number of schools and communities in Scotland. I can understand why you are calling for an audit.

Jeff Knight: That is why we want to have a review of the procedure that is already in place and, if possible, to review the current bids.

11:15

Dorothy-Grace Elder: I assume that the fine granite-built schools to which you refer are on prime land. Is gaining large sums of money by selling off those schools a motivating factor for the council?

Sharon Duncan: Yes. However, at Old Rayne and Rayne North, the land will revert to the former owner, who is the local laird. It will fall from community use, so the council will not gain from it in that way, but it will gain consolidation in an area in Logie Durno. That is our case example. The council is going to build the 200-person school on the playing field at Logie Durno, so the only place left to play will be on the rubble of what used to be Logie Durno school, which is not a big area.

Dorothy-Grace Elder: Did the ancestors of the local laird build the school?

Sharon Duncan: Yes.

Dorothy-Grace Elder: So the land reverts to his family.

Sharon Duncan: There have been allegations that the council wants to build more housing at Logie Durno, but in order to do that, it must install sewage works. Access to that is the reason for the prime site at Logie Durno and the PPP build. I have no proof of that—those are merely the allegations that are being made in the community, that the bid is being used as a shoehorn to allow further building.

Nora Radcliffe: I want to come to the defence of Aberdeenshire Council. It has been painted in a negative light, partly undeservedly. The petitioners refer to one element of a much larger bid. Other parts of the bid in my constituency have been welcomed with open arms. We are getting new schools at Kintore and at Rothienorman, both of which are long awaited and badly needed and of which the local community is entirely supportive. Those proposals have been offered for consultation and I have received assurances that, if the community opposes it and wishes it not to go ahead, any element of the bid can be taken out without destroying the entire bid. The positive

elements of the bid have not come out clearly in the discussion.

The Convener: It must be stressed that the committee cannot interfere in decisions that affect individual schools.

Nora Radcliffe: In my initial remarks I said that there are aspects of the PPP process that must be examined critically. This group of parents has taken a responsible attitude—they are fighting their corner for their cause, but they are saying that there are general issues that must be considered and I endorse that.

The Convener: We move to the consideration of the petition. The petitioners are free to stay and listen to the committee's discussion. Thank you for your information; it will help not only Aberdeenshire, but other areas where there is resistance to PPPs, of which I am aware.

Again, I stress that the committee cannot get involved in individual decisions about closing or replacing particular schools—those are matters for Aberdeenshire Council. It is suggested that, as a committee, we write to the Scottish Executive to get its views on the general issues that have been raised in both petitions. In particular, we should request comments on the petitioners' claims that some local authorities might, at the expense of existing viable schools, be presenting misleading information in support of bids for PPP funding to build new schools.

Also, it is recommended that we request details of the procedure by which the Scottish Executive assesses PPP bids from local authorities and awards funding for such projects, asking whether it is likely that the Executive will introduce an audit procedure for future bids and conduct a review of the current awards procedure, as is proposed by the petitioners. It is also suggested that we agree to copy the petitions and associated correspondence to the Education, Culture and Sport Committee and to the Finance Committee, for their information only.

Helen Eadie: I agree with all those recommendations. However, the committee might consider an additional request from me that we write also to the Accounts Commission for Scotland, asking for its views on the point in the committee paper that talks about failing

"to examine the Executive's current procedures for assessing bids and awarding funding."

I, and other members of the committee, would be interested to hear what the Accounts Commission has done, or plans to do, on that issue. It is worrying to think that the commission will examine one element of the procedure but not what happens at the Scottish Executive. There should be an audit of that end of the procedure as well.

The Convener: I think that that would be okay.

Phil Gallie: I am happy to go along with the recommendations, but I would like clarification of one point. I suspect that, with respect to this specific project, Aberdeenshire Council is looking to the future and trying to improve its revenue situation overall. I would like clarification from the Scottish Executive about whether the intention was to include the improvement of revenue circumstances in the public-private partnership deal that was offered to the local authorities.

The Convener: I am not clear about what you are asking.

Phil Gallie: Aberdeenshire Council is taking the opportunity to change three schools into one, thereby probably making some kind of overall revenue saving in the longer term. I am asking whether that was the purpose of the public-private partnership money that the Scottish Executive offered.

The Convener: From my experience in Dundee, I know that a condition of being awarded the public-private partnership funding was that Dundee City Council had to make a 20 per cent saving in its education budget. The council was told that, if it did not find that saving, the PPP would not go ahead. Such a project is paid for by the closure of other schools. We could ask for that to be confirmed by the Executive.

Phil Gallie: As I said, my understanding is that the PPP money was offered specifically to deal with problems with the fabric of Scottish schools. It seems that we might have deviated here, in that we are talking about three schools that appear to be in good condition and have no such problems.

The Convener: The position is clear to me. However, if you want, we can ask the Executive to confirm the fact that the only way in which it can pay for the PPP—which is a very expensive way of providing schools—is by councils making savings.

Phil Gallie: I do not disagree with that.

The Convener: The savings have to come from closing school buildings. Sometimes, that may mean—as it does in Aberdeenshire—that good school buildings are closed to pay for a PPP that must be funded by borrowing from the private sector.

Phil Gallie: Overall, that might be an effect. However, we are talking about three specific schools that are being closed despite there being no problems with the buildings. They are being closed simply to improve the council's revenue situation, which probably bounces out onto other communities in Aberdeenshire. I have no argument with that. However, I feel that that is deviating from the original purpose of the PPP

money, and I would like some clarification.

The Convener: Okay. We will ask the Scottish Executive to clarify why it is prepared to accept the closure of three schools of good fabric to build a single new PPP school in the area.

Dorothy-Grace Elder: Can we ask the Executive whether the Accounts Commission can report on land sales by education authorities, stating what happens to the land and property and what accrues or does not accrue to a council through those sell-offs, especially in rural areas? We have heard today of a case that might not be unique, in which the land and property will revert to the laird of the parish, whose family originally created the school. It is, no doubt, legal and right that they should return to the laird, but we should be aware that, through PPP deals, we might be restoring land to the lairds and wiping out public facilities other than schools. The councils will have no chance to build something else on that land.

The Convener: We are already writing to the Accounts Commission to ask for views on the points that are raised in the petition. We could also ask for comment on the land sales and disposal of the land.

Dorothy-Grace Elder: We thought that we were selling off the public family silver, but now we realise that we are throwing it back to the lairds. That might be happening elsewhere in rural areas.

The Convener: We could be going forward to the past. Is that course of action agreed?

Members indicated agreement.

The Convener: I thank the witnesses for attending.

Scottish Public Services Ombudsman Act 2002 (PE525)

The Convener: There is one more new petition, PE525, to consider. The petitioner had hoped to attend the meeting in support of the petition, but is unable to attend. However, he has submitted a copy of the presentation that he would have made, and copies are attached to members' papers for the meeting.

The petition, submitted by Mr Yogi Dutta, concerns the Scottish Public Services Ombudsman Act 2002, and calls on the Parliament to take the necessary steps to amend the act to incorporate a range of measures to deal with grievances against Scottish local authorities. Mr Dutta is particularly concerned about the fact that, although the ombudsman system in Scotland has been rationalised, as it were, the system has not actually been changed in any way whatever. He is concerned that there seems to be no scrutiny of the commissioner's role in deciding on

individual complaints. The commissioner rejects 90 per cent of complaints, and the only recourse against the commissioner's decision is to take the matter to the courts.

On page 2 of the papers attached to the petition, Mr Dutta lists a number of reforms that he believes should be taken up as amendments to the act. We are advised that, given that the Scottish Public Services Ombudsman Act 2002 has only recently been passed, it is unlikely that due consideration would be paid to making amendments at this stage. However, we could write to the Scottish Executive to seek comments on the issues that are raised by the petitioner, with a specific request for an indication of whether the new ombudsman will address some of the perceived weaknesses of the present complaints system, as highlighted by the petitioner.

Do members have any views?

Helen Eadie: I agree with the recommendation.

The Convener: Is that agreed, then?

Members indicated agreement.

Current Petitions

Sites of Special Scientific Interest and Special Protection Areas (Arran, Barra and Yell) (PE462, PE463 and PE464)

The Convener: We deal now with PE462, PE463 and PE464, which concern the designation of sites of special scientific interest, special protection areas and special areas of conservation. The committee has had quite a lot of discussion about the petitions, and members will remember that we decided to invite Scottish Natural Heritage and the Advisory Committee on Sites of Special Scientific Interest to give evidence. We very much welcome the representatives from Scottish Natural Heritage who are here this morning.

Before we ask the witnesses questions, I would like to say a few things about the continuing controversy surrounding the three petitions. Members will recall that, when last we discussed the petitions, reference was made to several e-mail messages from councillors and individuals who objected to certain views that were expressed by the petitioners, particularly in relation to the Barra petition, PE463. Those e-mails came from Councillor Ronald Mackinnon, Councillor David Blaney, Tim Atkinson, factor of South Uist Estates, and David Buckland, a member of the north area board of SNH and a local vet on Uist and Barra.

Mr Buckland's letter objected to accusations that he believes question the integrity of SNH employees in the area. The other messages made the point that, although they object to the proposed Sound of Barra SAC designation, they do not support PE463, which questions the handling of the consultation process by SNH and the actions of local SNH staff. Those correspondents have asked to have their support—which they say was included without their permission—removed from the petition.

Those statements have in turn been queried and challenged by Ian Mitchell, who supports the petitioners, and by Councillor Donald Manford, the principal petitioner of PE463. Councillor Manford is very concerned that he has been accused of attempting to mislead the committee on the strength of those comments. A copy of the letter that was received by the clerk this morning has been passed to members.

When previously we discussed the petitions, I also referred to an e-mail from Professor David Houston of the University of Glasgow, disassociating himself from the comment that was attributed to him by a supporter of the petitioners, to the effect that there is an anti-science culture in Scottish Natural Heritage. Mr Mitchell and others

have also questioned that statement. However, it has been confirmed that that statement was contained in a response from the institute of biomedical and life sciences at the University of Glasgow to the Executive's consultation on "The Nature of Scotland". The response was submitted by the director of the institute, Professor John Coggins, who indicated that it had been produced largely by colleagues, including Professor Houston. There is no evidence that the specific statement to which Mr Mitchell referred can be attributed personally to Professor Houston.

I must stress that the committee cannot become involved in a detailed argument about what different individuals said about each of the petitions. It was never the committee's intention to suggest that any petitioner—let alone Councillor Manford—had attempted to mislead the committee or anyone else. In dealing with the three petitions, we must stick closely to the general principles that are outlined in the petitions. When we question Scottish Natural Heritage and the Advisory Committee on Sites of Special Scientific Interest, we must stick to those principles and we must not become involved in detailed arguments about individual petitioners.

11:30

Dr Ewing: When a petitioner to the Public Petitions Committee, which meets in public and whose pronouncements are a matter of public record, feels that they have been maligned, there is a problem. Mr Manford, who is the only councillor for Barra, feels that he has been accused of being misleading.

In my opinion, the SNH press release that was headed

"Public Meetings Reassure Sound Of Barra Concerns"

must be false, because there was unanimous opposition. Perhaps we can settle the matter now. We can put it on the record that Councillor Manford has a point. He feels that the fact that SNH went to the *Stornoway Gazette* and so on, with the result that the story was published, gives a false impression of the people of Barra, who were unanimous in their opposition—right or wrong, anti-science or not. The issue is on the record of the Public Petitions Committee. Let us clear up the matter. In some way, it has got to be put right today.

The Convener: I thought that I had put it on record that there is no implication that Councillor Manford attempted to mislead the committee or anyone else at any stage in his comments. We make no such suggestion—Councillor Manford is completely exonerated in that respect.

Phil Gallie: The councillor refers to comments that I made on a previous occasion. When we first

dealt with the matter, I was fairly supportive of the comments that the petitioners made. I felt very strongly when I subsequently received information that suggested that the Barra submission was totally erroneous. It appears that I was wholly wrong to feel that way. I acted on the information that was supplied at the time. I despair of the fact that we were provided with wrong information at that point. I withdraw any comments that I made that brought Councillor Manford into disrepute. I am sure that he will accept that it is not surprising that I took such a stance. He acknowledges that in his letter to us. I now feel considerable anger.

The Convener: If that matter has been resolved, we can move to questions. I welcome the representatives of Scottish Natural Heritage: John Markland, who is the chairman; Ian Jardine, who is the chief executive; and Simon Fraser, who is the chairman of SNH's north areas board. Do you have an opening statement to make?

John Markland (Scottish Natural Heritage): I would be much obliged if we could make a statement. I would be even more obliged if Simon Fraser could be allowed to supplement it briefly. We welcome the opportunity to meet the committee and to answer any questions that it might have. Some pretty harsh things have been said about us in the committee. We have been accused variously of dishonesty, incompetence and misrepresentation. Since the committee's meeting on 21 May, we have forwarded several documents in which we set out the facts of the matter and refute many of the allegations that have been made. It is good to have a face-to-face opportunity to set the record straight.

The designation process of special areas of conservation and special protection areas, which you will be aware are underpinned in most cases by site of special scientific interest designation, is required to meet the United Kingdom's commitments under the European Community birds directive and habitats directive. SNH has consulted on 227 SACs and 139 SPAs in that process. We have consulted 15,000 owners and occupiers as well as local authorities and a wide range of local and national representative bodies. In the process—the convener has these figures—fewer than 1 per cent of the people whom we consulted lodged an objection.

All European Union countries have had to deal with issues similar to those that the UK and Scotland have experienced in the designation process. Some of those issues have been considerably more serious than those that we have dealt with. I do not want to go into that just now, but I am happy to answer questions on it if you wish.

We have also sent the committee the two European Court of Justice reports, which

members asked for at a previous meeting. The reports make categorical statements that member states cannot take into account economic issues and, in the case of the Bristol docks judgment on SACs, economic, social and cultural matters, when determining boundaries.

We accept fully that improvements to the existing statutory processes are necessary. The Executive also acknowledges that and we have provided the committee with our responses to the "Nature of Scotland: A policy statement" consultation. Members will see that in that response we have set out our support for extending the consultation process and for an appeal process that is completely independent of SNH.

Within the constraints of the existing legislation we consult widely on all sites. We are required by law to consult with owners and occupiers and local authorities. We have extended that to include community councils as well as other local and national representative groups. We arrange public meetings and advertise our proposals in the press. I am not setting any great store by that and I am not singing our praises; I am simply stating the facts.

We have never sought to mislead or misrepresent anyone's views. To do so would be the height of folly, given that all representations that we receive require to be forwarded to the Scottish Executive before ministers make their final decisions. We had toyed with the idea of sending the committee a large package of information that set out one such representation as an example, but we have not done so, because we thought that members had enough paper. Should any member of the committee wish to see it, we would be happy to provide you with even more paper.

The Convener: On behalf of the committee, thank you.

John Markland: We understand that people have fears about the effects of a new designation. In the past 12 months, we have commissioned an independent study of our working relationships with owners and occupiers of sites of special scientific interest. That study showed that 78 per cent of owners and occupiers said that they enjoyed a good working relationship with SNH.

Over the past two years, our natural care scheme has helped us considerably. It enables us to show far more clearly how owners and occupiers will benefit financially from management agreements that are put in place to give support to designated sites. Without blowing our own trumpet too hard, I can say that the United Kingdom in general, and Scotland in particular, is regarded as a leader in that field.

It is not our intention today to present the committee with a counsel of perfection. Like every other public body and every individual in Scotland, SNH makes mistakes. When we make mistakes we admit to them, we learn from them and we rectify them. That is why when we were persuaded that the release of information in the Arran moors case was inadequate, we did something about it. We killed the process stone dead, we reissued the data more widely and we gave everyone who was affected a full chance to respond. I suggest that that is not the hallmark of an organisation that is riding roughshod over communities.

Simon Fraser (Scottish Natural Heritage): I am chairman of the north areas board of Scottish Natural Heritage. I live and work in Callanish in the Western Isles.

It may be helpful if I say something about the background to the work that we are discussing. I am particularly concerned about some of the allegations that have been made about the report that we prepared for the Scottish Executive in connection with the Sound of Barra proposal. That report is not yet in the public domain, so I cannot understand why some have suggested that in the report we have misrepresented the position to the Executive. I imagine that in due course the Executive may put the report into the public domain. I have examined the report thoroughly and find that every representation—whether it was made in writing or verbally, at a public meeting—has been fully recorded and faithfully reported to the Executive.

In its report, Scottish Natural Heritage recommends that, given the concern that exists about some of the seal count information, for the time being the Executive should not forward to Europe the proposal for the establishment of a special area of conservation in the Sound of Barra. In saying that, I am not breaching any great confidence.

Let me provide members with some information about the way in which the north areas board conducts its business. Our role is to offer advice to SNH. The board includes members from across the Highlands and Islands. For administrative purposes, we divide the Highlands and Islands into five parts. The first area is the northern isles—Orkney and Shetland. The second is the Western Isles. The Highlands are divided into three sections. There are two board members from each area. There is a board member from South Uist and I am from Lewis. There are board members from Orkney, Shetland and Sutherland. The board includes a wide mix of people, many of whom are crofters.

We meet five times a year, once in each area. On the evening before our meeting, we hold a public event to which everyone is invited. We start

the meeting with a presentation of our work in the area. That is followed by a full discussion session. Anyone who wants to raise anything with any of the board members may do so. We deal with concerns there and then. There are huge turnouts at our public meetings. Last year, I was present at a meeting in Orkney. People came over from Hoy to Stromness for the night just so that they could attend. We have had our troubles in Hoy but, in the bar after the meeting, a farmer from the island said to me, "That was very brave of you, but it was very good. I wish that more public bodies did this sort of thing."

A couple of months ago in Thurso, the people who several years back had led the opposition to the peatland designations in the flow country told us that they were now in total agreement with our position. They are very pleased that we are investing money in management in the area.

Two weeks ago, we held a public meeting at Pol a'Charra, which is on the southern tip of South Uist. If you take the wrong turning out of the bar, you will find yourself up to your neck in the Sound of Barra. The Sound of Barra proposal is not just about Barra. Eriskay and South Uist are also affected. Forty or 50 people from all around the area attended the meeting in Pol a'Charra, but no one mentioned the issue of the Sound of Barra designation and the common seals.

I hope that we are approaching the end of the designation process, the aim of which is to implement European directives. The process has been fraught, not just for communities, but for staff, who have had a very busy and difficult time. However, we have got through it. The most important issue is not designation but what happens afterwards. Under the European directive in question, we are required to secure the optimal management of special areas of conservation in future. As John Markland mentioned, through our natural care programme we are investing substantial amounts of money in the management of those areas. This year, we are investing £4.5 million, which will rise to more than £5 million of our budget next year. We are giving £132,000 a year to the crofters of north Lewis under the Lewis peatland management scheme.

Nearly £250,000 was allocated to crofters through the Caithness and Sutherland peatland management scheme and £124,000 was allocated to the corncrake management scheme. That is all going into the hands of people in small communities, whom we are paying to help to look after the environment for the future. That is what is important. As I said, I hope that the designation process is pretty much at an end. The future management is what counts.

11:45

Members might have formed the impression, perhaps from their postbags, that designations are what we are all about. They are not—they are only a small part of our work. We do a huge amount of work, whether in supporting ranger services, in environmental education—such as our work in the Beinn Eighe visitor centre, which Mr Munro was good enough to open in the summer, and the Knockan crag visitor centre, which we opened last summer—or in our national nature reserves. We do a great deal throughout the country—it is not all about designation. We can do that only by working together with folk. In my experience, that is what we do.

The Convener: I welcome to the meeting Alasdair Morrison, who is the MSP for the Western Isles and who has an interest in the petitions, and Dennis Canavan MSP, who has an interest in a petition that will come up later. The questions that have been circulated to members are only for assistance and information. Members are not expected to stick rigidly to them and can ask any questions that they wish.

Dr Ewing: SNH is quite brave, because it often enters enemy territory and is involved in what locals—rightly or wrongly—consider worrying threats to their way of life. You are brave in that you hold meetings and you have been flexible enough to involve community councils, which was a good idea. You advertise your meetings. In all those respects, you are commendable.

However, you cannot blame many people for feeling that the exercise is a bit pointless. They come along with their worries—often social, cultural and economic—but, as you say, only the science is considered, although, after the event, you seem to have some leeway to cure the situation that the directive has caused.

Have you never considered asking that the directive be changed? That can happen. Britain is good at implementing directives. The highest marks often go to Britain, with rather awful results, because often, advantage is not taken of the time that is allowed for implementation. The Government goes ahead, because we are so efficient at employing hygiene officers, for example, which many European countries do not have. After all those agonised people attend your big meetings, do you never think of changing the directive a bit to have more flexibility? You have sought and obtained flexibility in the past. Could you not seek a bit more flexibility when the population are—rightly or wrongly—agonised?

John Markland: Ian Jardine probably has the longest corporate memory of the three witnesses and I will ask him to speak soon. Dr Ewing raises some valid points. We have given the committee

figures from which a crude league table of European countries could be compiled. The United Kingdom is not at the top of that table. In one list, it is 11th and, in the other, it is 12th, in terms of the hectareage of sites that have been designated under European directives.

Dr Ewing: I do not believe it.

John Markland: I am going more or less straight from this meeting to Brussels to chair a meeting tomorrow and the day after of a committee of the environment part of the Commission that is considering future funding and obtaining more European funding for the initiative. As Simon Fraser said, that could bring huge benefits to what we do. To be fair to the Commission, it is concerned about the issues and is anxious to do something about them. It would have been a jolly good idea to do something five years ago, rather than now, but it is easy for me to say that. Ian Jardine may have a more thoughtful answer than mine.

Ian Jardine (Scottish Natural Heritage): I doubt whether my answer will be more thoughtful, but I will say something. The question is an extremely good one and I am surprised that it has not been asked more often over the past 10 years.

Dr Ewing: I have asked it.

Ian Jardine: In the European Parliament, an attempt was made to amend the directives. I do not fully understand the process, but I know that a certain number of MEPs must support such an amendment. The attempt did not succeed.

From SNH's point of view, things can be difficult because the UK's position in the Council of Ministers has been very supportive of these two directives. The UK has not indicated any desire to seek to amend them. That may change in future, I do not know. The UK is not alone in finding the implementation of the directives difficult. They cause much concern at local level.

Helen Eadie: I will start by saying good morning to John Markland. We have worked together before and, if he says something, I have absolute trust in it. Now that I have said that, I will get my knee-pads off. I had my crawlers on there, John.

I was not present at the February meeting, but groups that I have worked with have told me—and this point is picked up in one of our committee papers this morning—that the directives say that account may be taken of socioeconomic needs only after sites have been designated. That is the part that everyone struggles with. I have worked with miners and with pigeon groups across Scotland. What upset them was that the directives did not try to balance all the concerns. We can understand the sound ecological reasons for wanting to maintain our natural heritage, but we do

not seem to handle the balance as well as we should.

John Markland: That is absolutely right. We have followed the letter of the law in this case, but it is extremely difficult for us to undertake a consultation process on what is a very narrow set of issues. Although we are clear about what we are consulting on, we should acknowledge that it is not easy for communities to appreciate that the issues of most concern to them—the socioeconomic and cultural issues—are issues that we cannot take into account. That is one reason why so much heat has been generated over these issues. It is easier to do things after the event but, after the event, one has often lost the support of those whose support is needed to make schemes work.

Simon Fraser: I want to add something that ties in with Dr Ewing's question. In the UK, the directives were applied through statutory instruments applying to Scotland, England and Wales. That was how the European system was bolted on to the UK system. Here, it was bolted on to the existing SSSI process. However, from the directives, we can see that member states can secure compliance through legislative measures or through contractual measures. We therefore sought permission from the Executive to proceed with some European sites not through the SSSI process but through management schemes. People find the SSSI process difficult to deal with—it is inflexible and it gets up people's noses. We tried the management scheme idea in the Lewis peatland scheme. We have had a sign-up rate of, I think, 90-odd per cent. It is a European site, but it is not underpinned by an SSSI mechanism.

The SNH executive had to ensure that Europe was comfortable with that approach. We were allowed to implement the approach in two or three areas, such as the corncrake management scheme and the Lewis peatlands. I think that there have been one or two others more recently.

We have been able to tweak the mechanism—not the directive, but the way in which it has been applied. That approach has proven successful. We would like more of that approach.

Phil Gallie: One of the things that has been clarified for us is the fact that you have that restriction. I do not think that, when we first discussed the petitions, we were all aware of that. I certainly was not.

Will you give me an idea of the percentage of Scotland's landmass that the special designations cover? I have a figure of 32 per cent. How does that compare with England, Wales, Northern Ireland and the rest of Europe?

John Markland: Ian Jardine may manage to

find a table that explains that. I think that we have something that does so.

Ian Jardine: We calculate the total SSSI coverage in Scotland to be 12.8 per cent of Scotland. As Simon Fraser explained, some areas will be European sites but not SSSIs. Your figure of just over 13 per cent seems right to me.

I do not have comparisons with England and Wales for SSSIs in front of me. However, I think that, after the previous meeting, we gave the committee comparisons with England and Wales for European sites. On the birds directive, Scotland has a higher proportion of designated sites than England or Wales. On the habitats directive, our proportion is higher than England, but smaller than Wales.

Phil Gallie: Can you recall the situation in other parts of Europe?

Ian Jardine: The figures that we have are those that the Commission produces. On the habitats directive, we are ranked eleventh out of 15 member states on percentage coverage. On the birds directive—I have got this the wrong way round. Perhaps John Markland has the figures.

John Markland: I have managed to find them. In the birds directive table, we are twelfth out of 15, which suggests that we are not over-designating.

Ian Jardine: Yes, that suggests that we are not over-designating. We must take some care with those figures, because it can be quite difficult to see how some states are calculating areas of sea as a percentage of land. Although we have to be a little wary about some of the figures, they indicate that we are not out of line with other European states. The Commission thinks that we are in the lower half.

Phil Gallie: What measures do you take to enforce the boundaries that you have set? How do you ensure that people do not cut across the rules that you have set down for specified land?

Ian Jardine: There are two sorts of mechanism. In one, the SSSI system cuts in. That is the system of requiring the owners and managers of the land to consult us if they wish to carry out certain activities. The system relies on the manager of the land approaching SNH to say, "I intend to change my management; will the change affect the site?" If we believe that it will, we can ask the manager not to make the change and offer compensation if they say that they nonetheless wish to go ahead.

The other system relates to the fact that the European designations have an effect on planning legislation. If a planning application or an application for a discharge consent, for example, were to be lodged within the designated area, the

relevant body—be it the local authority or the Scottish Environment Protection Agency—would be required to go through the procedures of the directive before it could grant permission.

Phil Gallie: Have you any indications that not everyone follows the procedure and asks your consent? Do people simply get on with their lives and their businesses?

Ian Jardine: It would be foolish to think that people always consult SNH, although I think that the vast majority of people consult us. Odd mistakes happen. I am not aware of many serious incidents in the past few years whereby it appears that somebody has deliberately damaged a site without consulting first. I can think of only two or three such incidents; they are relatively rare in Scotland.

Phil Gallie: Do you have a policing role? Do you occasionally send people out to check areas?

12:00

Ian Jardine: Not in that way. We have a system to monitor SSSIs. On a six-year cycle, we check whether the reason that the site was notified still exists and the condition of the site. That picks up on whether something has happened.

The majority of cases are relatively minor and often there are genuine mistakes. Somebody will forget to consult or will not realise that they had to consult, but that will not have made much difference. The minister is the only person who can intervene and issue a nature conservation order to stop an activity. SNH does not have that power.

Mr Alasdair Morrison (Western Isles) (Lab): I thank the committee for allowing me to participate in the meeting. I am concerned about the issue relating to the Sound of Barra and the neighbouring islands. As the convener rightly stated, we should dwell on the important issues that relate to the consultation process.

I happily commit my experience of SNH in the Western Isles to the *Official Report*. I have been happily reminiscing—as one does—that the first public meeting that I held after my election in 1999 was in North Uist. The meeting was on the natural heritage and mink predation in those islands. I recall fondly that the local landowner sent along some of his agents and heavies to dissuade us from a course of action. I was grateful for the experience and expertise of two SNH officers at the meeting—David MacLennan and John Love. I suspect that they have been mentioned regularly in relation to the Sound of Barra situation.

John Markland said that there had been accusations of incompetence and dishonesty, among other things. I have always found SNH

officials—John Love in particular—to be courteous, competent and scrupulously honest, albeit that we have had our differences and robust exchanges. Such exchanges have always been forthright and straightforward. Simon Fraser mentioned the Lewis peatland management scheme, which is important and which I would hold up as an exemplary consultation.

I have three questions that relate to a matter that Dr Ewing raised. First, should we bother to seek an amendment to the directive? If I understood Simon Fraser correctly, he said that we are coming to the end of the designation process. Secondly, how does SNH compare with its brother organisations in other EU countries? How does it compare with other agencies that are responsible or answerable to other regional Governments? Thirdly, is the issue of seals a dead matter? Anecdotally, I have heard that they have moved on to pastures new, or may have been victims of the distemper virus.

John Markland: I will deal with the first question and pass the other two questions to Ian Jardine, who may want to bring in Simon Fraser.

Alasdair Morrison angled his question properly. The time for an amendment has now passed. We are reaching the end of the process and we should focus on the management of sites, getting money in, promoting the sites better than we can do currently and getting real interest behind what is going on.

Ian Jardine: On how we compare with the rest of Europe in respect of consultation, at the beginning of the process, the UK as a whole took a different position from most of Europe on a site-by-site consultation process. As far as I am aware, most European countries did not have such a process. Other European countries started with the scientific approach of coming up with lists of sites, which were then cleared with the Government before they let the Commission have a look at them.

Not surprisingly, several countries found that such an approach gave them severe problems. Quite a number of member states have become more consultative since the two directives were introduced. Ireland in particular now takes a consultative approach that includes an appeals process and is similar in many ways to ours. I believe that other countries, such as Finland and France, have also become more consultative.

It is interesting that other European countries look to the UK to learn something about consultation. That is not because we always get it right, but because we have learned some lessons and have tried certain things, some of which have worked and some of which have not. Compared with the rest of Europe, and given the fact that

consultation is limited on the scientific basis that has been mentioned, we have a good record on consultation.

A count of the seal population in the Sound of Barra took place in the same year as the consultation. The count indicated that the seal numbers had dropped. The speculation was that the drop was linked to the construction of the causeway, but the sea mammals research unit advised that it would expect the seals to come back. We advised the Executive that it would be wise to wait and see whether that turned out to be right rather than send the site to Europe.

Obviously, the recurrence of the distemper virus is another unknown in the system. Science does not allow us to predict exactly what will happen to those seals and whether they will come back to the Sound of Barra. We need to wait a couple of years and see what happens.

Dorothy-Grace Elder: Having heard the previous evidence and having read a fair amount about it, I have drawn the conclusion that SNH is regarded in some of these islands as virtually the new lairds. In fact, what is unusual is that even the lairds complain about SNH. The list of complainers from Arran includes not only people who have smallholdings and moderate-size farms but Lady Jean Fforde and Lord Arran. The petition from Barra contains a powerful list of people who are complaining: South Uist Estates Ltd; the estate of Barra; Councillor Manford; all the community councils; the Western Isles Fishermen's Association; and the Barra branch of the Scottish Crofting Foundation.

There must surely be something wrong when all those people from right across the spectrum complain about you. To a large extent, the issue comes down to jobs, because your preservation of hen harriers and so forth is not doing much to preserve the local people.

John Markland: We set our stall in our opening remarks. The first thing to say is to give the overall context. The fact that the number of objections is less than 1 per cent suggests that we do not have a massive problem across Scotland. We have acknowledged that there have been particular difficulties in some areas.

If I may return to Simon Fraser's point about the Sound of Barra, our decision not to recommend that the site be designated must surely be an indication that we have been listening. We are not sure that the objectors knew that that was the case when they started their petition, but that is perhaps unlikely.

It would be unfair to conclude from a relatively small number of cases—in which we accept that there are complex and difficult issues—that the whole organisation is branded in the way that I described in my opening remarks.

Dorothy-Grace Elder: You say that the number of people complaining is under 1 per cent, but I must point to the fact that those include not only individuals but large and powerful bodies from various islands.

Earlier in the year, we heard evidence about a farmer on Arran who wished to acquire a few more hectares on which to graze enough cows to make his small farm viable. However, he was turned down. It was claimed that SNH favoured the preservation of the hen harrier at the expense of local employment and of the viability of that farmer and his family.

It is not coming clearly through the ether that you balance jobs and people's livelihoods with the huge number of acres and hectares that you control.

John Markland: I hope that we have made clear the process that we have to go through, the basis upon which the exercise has to be conducted and the fact that—to put it succinctly—we believe that there is a better system, which will come along once the Scottish Executive can move on the proposals that it has published.

We have also made it clear that we see a need for far more ability to put up front in the designation process the benefits that would come to landowners and occupiers. We are doing the job of Government to say that nature conservation is as important as other forms of land management, such as farming or crofting. However, we do not have the wherewithal to put the money up front that comes with those other activities. We are trying to rectify that situation and—

Dorothy-Grace Elder: Excuse me a moment, but why did you turn down the farmer who wanted only about eight hectares out of the hundreds of hectares that you control and protect for the hen harrier?

John Markland: Perhaps Ian Jardine could deal with that question.

Ian Jardine: I return to what I said about the way in which the SSSI process works. The process includes the possibility of negotiating a management agreement in which the farmer agrees not to proceed in exchange for compensation so that his livelihood is not affected. That is what is happening in that case. I understand that the farmer has agreed to enter into a management agreement and that that agreement is being negotiated.

Dorothy-Grace Elder: How much? Is it worth it?

Ian Jardine: It is a process of negotiation. He does not have to accept—he can agree a figure.

Dorothy-Grace Elder: He can probably agree to leave the island.

The Convener: From the evidence that you gave to us, I understand that only six special protection areas and nine SACs remain to be designated.

Ian Jardine: Yes, but things can change and the minister can classify more sites if we have given him the consultation reports. The figure for SPAs is correct. We are finishing the consultation for the SACs, but the number must be about nine.

The Convener: Alasdair Morrison asked whether, as we are coming to the end of the process, it is worthwhile seeking reform of the directive. Do I understand correctly that, when the last few designations are done, the process will be complete and that it will not happen in Scotland again?

Ian Jardine: May I be clear with the committee about one thing? SNH has always said to the Executive that we cannot tell it how many directives is enough; it has to tell us that.

The Convener: So, in the future, there could be further directives to designate further parcels of land across Scotland?

Ian Jardine: There could be further directives. We also have to be clear that, under the current directives, the European Commission has not finally accepted the UK's list under the European habitats and species directive. That means that there could be further directives.

The Convener: So it is important for you to get your consultation processes with local communities across Scotland absolutely right. Are you satisfied that your consultation processes are absolutely right?

John Markland: We are as satisfied as we possibly can be. Without raking over the issues that we have discussed before, we are dealing with the matter on the fairly narrow basis of the science at the point of designation.

The bigger issue is the need to get more money into the management of the sites, which would enable people to see that society values what is happening to their land, just as it values agricultural land through the £500 million that goes into agriculture subsidies. I see no difference. Society wants to preserve such sites because they are as important as the sites from which society wants to get food.

12:15

The Convener: I am asking about the consultation of local communities, which are allowed to object only by challenging on scientific grounds your designation of a specific site. What

support do they receive to enable them to do that?

Ian Jardine: They do not receive any independent support in making a scientific objection. They can ask us for information, but it is a bit like the planning system. The people who object to a planning application do not get public assistance in making their objection.

The Convener: So, people can ask you to provide them with arguments against your decision.

Ian Jardine: They can ask us to provide them with data and information. A big issue in the petition is the provision of data and information.

The Convener: Can anyone from the local communities easily obtain any data that are held by Scottish Natural Heritage?

Ian Jardine: Yes, with the caveat that they would have to be data about a species, such as the hen harrier, that might be sensitive because it is subject to persecution. In such cases, we give the information to the person on whose land that species is found. We do not distribute that information to other people on the site or more generally; we give it only to the people on whose land a bird is nesting, so that they know what is there.

Dr Ewing: Are you seeking more money for the management of such sites from Europe, or from Europe and the member states? Or is it just the UK that has to fork out? Where are you seeking the money from?

John Markland: I now seem to be a world expert on this. Article 8 of the EC habitats directive has provision for co-financing, which, in European jargon, means a joint arrangement between member states and the Commission. Very little money has been forthcoming from the Commission. The main stream of funding has come under LIFE environment funding and has been allocated largely for demonstration and experimental initiatives. We are trying to get more mainstream money to underpin that.

Dr Ewing: I hope that you do not always rely for your scientific advice on the advice about birds that is given by RSPB Scotland, which is frequently wrong.

The Convener: That is a recurring theme in this committee.

Ian Jardine: In considering the sites, we try to obtain the best information that is available. That information may not be perfect, and decisions may have to be made about whether it is good enough. A lot of information on birds in Scotland is held by the RSPB.

Dr Ewing: Oh dear. That is worrying.

Ian Jardine: It would be daft of us to ignore that information, as it is important. As John Markland said, we do not pretend always to get things right; we learn as we go along. The data issues surrounding some of the sites have been especially difficult, and it is a case of our ensuring that we get the best data that are available and that we are clear about how we judge whether that information is good enough. Some of the data come from the RSPB, as it holds a lot of data on birds. However, when we can get information from more than one source, it is important that we do so.

The Convener: As you said at the beginning, this is a complex subject—especially for a townie like me. You have managed to shed some light on it for the committee this morning. Thank you for your evidence.

We will now take evidence from the Advisory Committee on Sites of Special Scientific Interest. I welcome to the meeting Professor William Ritchie, the chairman of the committee; Professor Donald Davidson; Professor Bob Furness; and Miss Sue Bell, the secretary to the committee. You may make a brief opening statement. As you have probably gathered, we have already covered a great deal of the ground.

Professor William Ritchie (Advisory Committee on Sites of Special Scientific Interest): I would like to make an opening statement to clarify matters, but first the other members of the committee will introduce themselves and describe their scientific and other backgrounds.

Professor Donald Davidson (Advisory Committee on Sites of Special Scientific Interest): I am professor of environmental science at the University of Stirling.

Professor Bob Furness (Advisory Committee on Sites of Special Scientific Interest): I am from the University of Glasgow. I am a seabird ecologist.

Sue Bell (Advisory Committee on Sites of Special Scientific Interest): I am the secretary to the committee.

Professor Ritchie: I am currently vice-chancellor of Lancaster University. Along with one other person, I am the only survivor of the original committee that reported to the Secretary of State for Scotland.

We should be in response mode. Having read the *Official Report* of the committee's meeting of 26 February and listened to the previous discussion, I should like to make clear that we are responsible only for sites of special scientific interest. The discussion has been conflated to include SACs and European designations, but we have no remit in that area. We have no locus to

comment on European designations. If I do not make that clear, we may go off on tangents.

Dr Ewing: I cannot hear the witness.

Professor Ritchie: I am sorry—my Scottish accent has turned into a Lancashire accent.

The Convener: Professor Ritchie was making the point that the advisory committee has no remit for SPAs and SACs. It has power only over SSSIs. We cannot question the witnesses about many of the issues that are raised in the petitions that we are considering.

Given the controversial nature of the designations that are the subject of these petitions, do you think that SACs and SPAs should come within your remit?

Professor Ritchie: You are asking me to speculate about something that is beyond my power. Dr Ewing noted favourably the fact that we commented on the excellent document "People in Nature", which we supported and described as a constructive and sensible way forward. In commenting on that document, we went slightly beyond our terms of reference, which we should not have done. If the advisory committee has a successor, we may want its remit to extend beyond the tight science-only definition. Our collective expertise could be helpful in that regard.

The Convener: Your expertise is purely scientific.

Professor Ritchie: Yes. It is inevitable that objectors will bring into the arena wider socio-economic and cultural issues. We listen and understand where individual landowners are coming from. However, in the end we must say that their evidence is contextual. We can adjudicate only on the basis of science.

The Convener: So you do not judge the merit of any designations. You judge simply the scientific tests that have been applied to them.

Professor Ritchie: It would be wrong for me to use the word "judge". We are an advisory committee to SNH, which may ignore our advice.

Dr Ewing: From where do you get your opinions on birds?

Professor Ritchie: The evidence comes exclusively from SNH. It is included in the documentation that we receive. We take on trust that that is the best possible evidence available. However, Professor Furness is an independent expert on the issue.

The committee is balanced in terms of our expertise and when we identify the particular concern, which is usually quite easy, we appoint an independent consultant to join our committee as a supplementary member on a particular issue.

It is our job to interrogate the data to the best of our ability.

Professor Furness: We examine carefully the data that SNH provides to justify designations. We also examine published literature and other sources of information to see how the data that SNH provides compares with that from other sources. There are many circumstances in which estimates of the total population size of a species in the UK vary from year to year and according to different authorities. We have to weigh up whether, in our view, SNH has used the most recent and most reliable data.

Dr Ewing: I have a lot of problems with birds. I will not bore the committee by relating some of the really dreadful statements that RSPB Scotland has made regarding parts of the Highlands and Islands. The hen harrier is a threatened species in the UK. Statements have been made that it is a threatened species globally, which is quite false, because the best evidence that I can get shows that there are 28 million of them in Russia. I do not know whether that is right, but that is the statement that I have received. You do not go in for global threats; you go in for only UK threats. Is that right?

Professor Furness: The fact is that the number of hen harriers in Russia is not known, so there is a lot of speculation about how many there are. There are certainly a lot of them, but the state of the species globally might be quite different from its state in the UK. Our remit is to consider the numbers in the UK and to designate sites that apply within the UK rather than worldwide; I hold personal views on whether that is appropriate. If a species is widely distributed elsewhere, the criteria perhaps ought to be different from those that cover a species that occurs only in the UK. However, the rules are the rules and that is how we have to conduct our analysis.

Dr Ewing: If you do not like the rules, do you try to get them changed?

Professor Furness: That is probably a question for SNH, rather than for us. We simply advise SNH on what we think is the appropriateness of its science. One could make a case for the rules being considered in a different way.

Dr Ewing: How would you sum up your function, given that you told me when I asked the question on birds that you rely on the SNH evidence?

Professor Furness: We scrutinise the SNH evidence in relation to the wider context of evidence from other sources that might be available. Usually SNH uses all the evidence that is available and tries to be comprehensive.

Helen Eadie: I see a glimmer of light in paragraphs 9 and 10 of the paper that you have

submitted to the committee. I will not read out all of them, because I want to leave them for members to read, but there are a couple of sentences that are worth focusing attention on and I would be glad to hear your comments on them. The paper states:

"Whilst SNH's use of these guidelines has generally been found to be consistent and well-founded, the Committee has a number of concerns about the guidelines themselves.

First, whilst objectors may challenge SNH's application of the guidelines, there is no means by which the guidelines themselves may be challenged. Part A of the principal volume of the guidelines makes it clear that the British approach to nature conservation designations has evolved over a long period and the legislation gives SNH the power to select and notify SSSIs based on its own opinion of what constitutes 'special interest'. However, the same pages emphasize the importance of keeping the guidelines under review in the light of prevailing public attitudes to wildlife conservation. The time may now be right to seek a greater degree of consensus and support outside SNH for the criteria on which SSSI selection is based."

I wonder whether you would comment on all that, because it strikes me that it goes to the heart of the matter.

Professor Ritchie: I am sure that my committee would stand by every word of that and to expand on that paragraph would be superfluous.

Many of the guidelines are now quite old and, given our terms of reference, we are, in a sense, operating within an evolving situation that has not evolved legally. Therefore, one has a sense of frustration because there are other ways that might be considered. It is not for us to determine policy or make suggestions, but perhaps the guiding rules should be considered. The terms of reference, scientific criteria and operations such as potentially damaging operations would flow from that. That is why the committee spent a whole day writing a sensible response to "People in Nature". We were pleased that Scotland was doing something right. I am sad that that document has disappeared into some kind of legal or parliamentary hiatus. That document took into account concerns that had evolved over 10 or 15 years of our responses.

12:30

Professor Davidson: That is perfectly fair.

Many objectors do not have access to the national guidelines from the Joint Nature Conservation Committee. SNH has been approached to make that information more widely available. If people are objecting on scientific grounds, they need to know what the rules are. As well as reviewing the guidelines nationally, there must be a greater effort to publicise them so that people know what the game is.

Professor Ritchie: We have always taken our

role to be informative when first meeting objectors. We have not just corresponded with them, but have always met with them—in the field, ideally. In our written submission we have probably been legally slightly wrong. However, as an intellectual exercise, we have tended to ask what we would think if we were objectors. We believe that that is the correct methodology. I think that SNH would be the first to admit that an objector—for example, a crofter—does not have access to the depth of expertise that is available to SNH and to my committee. Incidentally, I think that that issue is picked up in the committee's papers.

Our role tends to be that of providing independent scientific scrutiny. The other side of the coin is that providing more information to objectors could mean unending costs and many consultants could make a lot of money. However, I think that our approach to the problem is a reasonable intellectual one.

Helen Eadie: In your written submission you referred to an issue that is perhaps relevant to the present discussion. You seemed to hint at the possibility of a role for your committee as an appeal committee for objectors. I wonder whether you would like to expand on that, because it is similar to third-party rights of appeal in planning issues, which we have considered many times at this committee. There is no easy access for objectors in this country. I believe that New Zealand and Ireland have structures that are based on third-party rights of appeal, but we do not. I wonder whether we should suggest that that should also be considered.

Professor Ritchie: It should be, but one has to be careful that one does not stray outwith the boundaries of one's expertise. One is always tempted to do that. It is comforting for me as chairman of the committee—and, I am sure, for committee members—that we know our limits. We know how far we should and could go. However, if those limits are to be amended, one must be equally clear about any new boundaries. If we were to stray into economic, social or cultural areas, the composition of the committee would have to change, because we do not have expertise on such matters—nor should we claim to have. I agree with your suggestion and perhaps a wide-ranging body should look into the matter.

I am perhaps speaking too much. One of my colleagues might like to comment.

Professor Furness: When they meet us most objectors believe that we are a body of appeal. It is a little disconcerting for them to discover that we are simply an advisory body that gives advice to SNH, which SNH considers before making up its mind. People are looking for the opportunity to appeal against decisions.

If one considers the outcome of the reports that we give to SNH, it is clear that, by and large, SNH accepts the points that we have made. Those points tend to relate not to whether the site should be designated—almost invariably SNH's science is correct—but to the details of boundaries and whether the line should be on one side of a field or the other. Often such issues are socioeconomic—they are about whether someone can have a lambing park or keep X amount of cattle. That takes us back to the question of balancing duties. There is a potential role for the committee to deal with such issues, although currently we are not the appropriate people to deal with them.

Professor Davidson: I want to add a comment regarding potentially damaging operations. When a landowner receives advance notification of a proposed designation, along with the details of the site there is also information about what may not be done on the land. Many landowners are seriously concerned about those potentially damaging operations. When they meet us, their objective is often to discuss those operations. However, strictly speaking that is not within our remit. I find it quite logical for our committee, if it is out discussing the details of the site with landowners, to discuss what would be sensible management to retain the intrinsic scientific interest of the site. As Professor Ritchie has suggested, it would be quite useful to bolt on to the revised committee a management dimension in relation to PDOs.

Dorothy-Grace Elder: Could you clarify a point on the status of the committee? SNH is a quango. Could the Advisory Committee on Sites of Special Scientific Interest be described as a quango? Are committee members paid or are they volunteers?

Professor Ritchie: Quango seems a funny term. The committee was established under section 12 of the Natural Heritage (Scotland) Act 1991. There is not an equivalent body in England. As our literature says, the committee's role under the act is

"to advise Scottish Natural Heritage (SNH) on unresolved scientific objections to SSSIs notified under the Wildlife and Countryside Act 1981."

Dorothy-Grace Elder: Is it a paid body?

Professor Ritchie: No. Our expenses are covered and we get an attendance allowance for every full day that we spend on committee business. I would not consider that to be pay. The administrative secretary is contracted to work for the committee following a competitive bidding process.

Dorothy-Grace Elder: So it is not a full-time occupation?

Professor Ritchie: Certainly not. We give up a lot of our own time.

Dorothy-Grace Elder: Absolutely. Do you see yourselves as part of the fragmentation of authorities relating to the environment? People are always talking about joined-up government and so on, but the environment seems to be less joined up than anything else. The First Minister has committed himself to a policy of environmental justice. We are not sure what that is yet. Clearly, there is a need for change because no one body seems to bring the socioeconomic situation together with the scientific evidence and the desire to preserve wildlife.

There are many disparate bodies—SEPA, Scottish Water and various quangos in which much of the public has no faith whatsoever—but they are not joined up in any way. There are many different bodies chasing around one thing when there are other vital matters in the frame, such as employment. Should the Scottish Parliament legislate—it is too late for this Parliament, but perhaps in the future—for more joined-up work? That seems to be the view expressed by one of your colleagues.

Professor Ritchie: This issue extends far beyond the remit of the committee, but if you are seeking comments from people and you are asking me about it as an individual, we could have a conceptual argument. One of the conceptual arguments is that no two people give the same definition of environmental matters. The definition ranges from everything from urban situations right through to the most obscure, esoteric science. If I went round everyone in this room, I doubt that they would contextualise or define “environment” in the same way. The word has become virtually meaningless.

Dorothy-Grace Elder: I am sure that many MSPs have come up against the fact that the buck is passed until the music stops; for example, it is up to planning, it is up to SEPA, or it is up to SNH. The public are wandering around getting no perceivable justice from anybody, which is why so many frustrated groups are coming before the Scottish Parliament.

The Convener: I do not think that that is the fault of the ACSSSI. We cannot hold that committee responsible.

Professor Ritchie: One way of looking at the situation is that the point of integration ought to be either the Scottish Executive or its senior officers. You are the overarching body and it should be your responsibility.

The Convener: I make it clear that we are not the Scottish Executive.

Professor Ritchie: No, you are not.

I am going off the track now. I run a big and complex university. That only works because I

delegate to sections of the university, but at the end of the day, the university decision falls on me as the chief executive. I am the integrator, or that role is fulfilled by the senate or the council. The issue is the structure. It is not for the small body called the ACSSSI to advise on policy on a subject that is high on national agendas everywhere in the world. However, there is always room for horizontal as well as vertical connections. That is a totally different debate from the discussion that we are having now.

Professor Davidson: It is correct to say that sometimes there is confusion out there about the way forward. Landowners have frequently raised with us how they can raise issues to do with designation. That is where the ACSSSI has a clear role. My view, and the view of the ACSSSI, is that that role could be extended to cover the work—

The Convener: I will press you on that, because it is not clear to me. You have a statutory requirement to offer advice to SNH. You have no statutory requirement to advise objectors, but you do so informally. Should that be put on a statutory basis? Should you be independent, between the objectors and SNH, rather than just have to offer advice to SNH?

Professor Ritchie: We pride ourselves on our independence. We would be nothing if we were not independent.

The Convener: I am not questioning your independence, but the fact is that there is no duty on you to offer advice to objectors—although you do so informally—but there is a duty on you to offer advice to SNH. Should not that duty apply to both sides?

Professor Ritchie: Strictly, the advice is not given to objectors. The advice is in the public domain. In a sense, it is about natural justice. Nothing that we say or do is anything other than public, and therefore we copy everything to the objectors, but we do not specifically give advice to them. The intellectual methodology that we use to approach a problem is to imagine that we are the objectors. That is not the same thing as giving advice to objectors.

The Convener: So you do not offer direct advice to objectors.

Professor Ritchie: No, we do not. It would not strictly be correct—

The Convener: Should you offer direct advice to objectors?

Professor Ritchie: I do not know the answer to that. I do not know what my colleagues think. We are straying from the issue.

The Convener: One of the themes that has come out of this morning is that someone can only

object on scientific grounds, but a local farmer does not have the ability to mount a scientific argument. Surely somebody should be available to advise him on how to mount a scientific challenge?

Professor Ritchie: There are two issues. You use the word “advice”, which I accept, but you could move a little and say that, during its 11 years, the ACSSSI has established such a reputation for integrity that the objectors trust the committee. That is not the same as providing advice, but we have reached this position. SNH trusts us and, on the whole, objectors trust that we deal with integrity and honesty, and with the best scientific expertise that is available to us.

The Convener: And objectors can get access to the advice that you give to SNH.

Professor Ritchie: Absolutely. We have been insistent that there are no secret exchanges. What we say and write is in the public domain.

The Convener: SNH told us this morning that it was as satisfied as it could be that its consultation process is transparent and is working. Do you agree with SNH?

12:45

Professor Ritchie: SNH was very careful in what it said and it said that it is an imperfect world and that it could do better. There are occasions when I think that the speed and the way in which SNH has communicated with communities and objectors is on the margins and perhaps occasionally more than on the margins. We think that we have detected upset people who would not have been upset if somebody had done something a bit more sensible a bit more quickly. I stress that that is the case in a minority of situations.

The Convener: So if SNH does not get 10 out of 10 for its consultation process, how many is it out of 10?

Professor Ritchie: Pass. I see that Bob Furness does not wish to comment either.

The Convener: Can I not pin you down on that?

Professor Ritchie: It depends. If you look at our cases, which we have done our homework on, many different cases have been considered throughout Scotland. In the overwhelming majority, people have respected what we have done and they have agreed with it—if agreement is the correct word—

The Convener: I was not referring to you, I meant Scottish Natural Heritage. What score would you give it out of 10 for its consultation process?

Professor Ritchie: One has to consider the

totality of the situation. Many of the issues have surfaced only in the specific cases of the hen harriers. That has epitomised some of the underlying concerns, which were perhaps present in other cases, but were not articulated with the same force and strength of feeling. The hen harrier work was a step function in the way that the committee had to work and the amount of work that we had to put in. We were speaking with lawyers and estate agents. That was new. There was no reason why that should not happen, but it was a step function in how we had to behave. For that reason, we have asked for a special meeting with SNH and the Scottish Executive.

Sue Bell: It will take place on 29 October.

Professor Ritchie: Before I get chuckled out because I have done my 10 years—that is not a nice expression to use; my term of office is over—we thought that we should sit down informally and ask what lessons we have learned from the cases involving the hen harriers and, to a lesser extent, the seals in Islay about three years ago.

Dr Ewing: And geese.

Professor Ritchie: Yes, and the geese.

We thought that we should try to take something constructive out of those experiences, so we asked for that meeting. We did not request the meeting in order to be critical; it was to say that those were learning experiences and that we should get something out of them that is of value.

The Convener: Let us hope that the Scottish Executive is in learning mode.

Helen Eadie: I will go back to the point that the convener raised about objections and appeals. A paragraph in the paper that you submitted to the committee is entitled “objections and ‘appeals’”. Although your committee does not regard itself as hearing appeals, the submission goes on to say that it could perhaps adopt that particular role and that

“that might reinforce its independence.”

It was particularly interesting to read that. You made the point earlier that your committee is not structured in such a way as to have expertise on socioeconomic issues. The paper that you submitted states that it

“is common practice for the committee to call in a specialist ecological adviser, and there is no reason why it should not also call in (for example) a specialist land use adviser and receive background information on socio-economic issues from the Local Authority on an informal basis.”

I take it from the thrust of that paragraph that you have given thought to the possibility that there could be a more formalised structure of objections and appeals. I ask you to expand on that.

Professor Ritchie: You are quoting from our

response to the consultation paper "People and Nature", which was an invitation for us to voice our opinion outwith our terms of reference. We were envisaging that the legislation would change and that the terms of reference would change too.

We suggested—no more than that—that if the terms of reference did change, the science core might be maintained, because good science can never be removed from any of the designations, but the need could be recognised for input on issues such as land use, which Bob Furness mentioned, or practice—asking whether we will drain an area—which Donald Davidson mentioned. As an expanded committee, we would have a permanent member with such expertise or hire someone independent, ad hoc, to give us advice on a problem. That would be better and more efficient than establishing a huge quango with an expert on everything. That is in the context of making progress on "People and Nature".

Helen Eadie: In a sense, you say that the answer is in our hands and does not necessarily involve having European directives rewritten. If we picked up on some of your committee's recommendations, we might help to change an unsatisfactory situation. I hasten to add that I struggle with quangos only when they have a big budget to expend. That is when democratic control should be exercised.

Professor Ritchie: We have a small budget.

Helen Eadie: I can live more happily with scientific and advisory committees that have small budgets. I commend all your work, because I know that you go above and beyond the call of what you are expected to do.

Professor Ritchie: Since we are moving on—and if you follow the lines that have been suggested—one issue that you might want to consider in relation to the committee is that an important role is available not for a quango, as such, but for an independent body that builds checks and balances into the system. I am sorry—I am certainly going too far

Phil Gallie: At the beginning, you said that the evidence that accrued was supplied by SNH. Has your committee any means of verifying the quality of the information that SNH provides? Do you express an opinion purely on what is supplied to you?

Professor Ritchie: We express an opinion that is based on examination of the original sources, if we can. I will change the subject slightly. If something arrived on hydrology and drainage, Donald Davidson would go out in the field and look at the drainage and hydrology in person, because that is his expertise.

Verification is a difficult problem when working to a short time scale. When dealing with volumes of

scientific data, we must feel that they are the best data. We cannot check every figure. We cannot say, "Did that man or woman count 1,000 or 500 seals?" If that person says that they counted 1,000 seals, we must accept that, as must SNH.

If we believe that the person or body that provided the information has scientific integrity, we are in the position of someone who reviews an academic article for a journal. We cannot verify the original data. We do not have that power. We have said on occasion that we would like a little more independent verification. In an ideal world, statistics would come from two agencies, rather than one. On occasion, we have questioned the integrity and verification of data. We refer to that in our submission.

Of late, we have been more rigorous on statistical interpretation when we have considered spread on the mean and said to SNH, "You have taken the best statistic. What would happen if you took the worst statistic?" Some of our recent reports have examined the probity of the statistics.

Professor Furness: The approach that we have taken is to accept the scientific integrity of the data that are presented to us but, wherever possible, to use published data of peer-reviewed quality. Very often, the choice of sites is based on data that are extracted from unpublished reports or from sources that make matters much more difficult to assess. We have sometimes expressed reservations about the quality of the data, but we can certainly evaluate data on different levels depending on whether they are published or unpublished, whether they come from one individual or from many, and whether they can be checked independently. However, we are usually working to a tight time scale. We may be assessing populations of breeding birds, for example, but our report may have to be produced in November. In such a situation, it would not be possible to go into the field and assess the bird populations ourselves, because we would not be able to meet the time scale that we have to work to.

The Convener: Thank you for your evidence, which was not only informative, but was also presented to us in a very courteous manner. You are welcome to stay and listen to our discussion on the merit of the petitions.

Professor Ritchie: I cannot speak for my colleagues, but I have to head back south fairly quickly. Thank you for hearing our evidence.

The Convener: I remind the committee of what the three petitions are about. PE462 calls into question the science upon which Scottish Natural Heritage based decisions. PE463 questions allegedly erroneous reports of consultation by Scottish Natural Heritage. PE464 questions the scientific justification for special protection area

designations for the raingoose.

Three options are set out in the recommendations for action. One option is to say that, on the basis of the evidence that we have heard this morning and our previous consideration of the petitions, we consider that no further action should be taken because we believe that the concerns raised have been dealt with. Another option is to say that, as the Executive has told us in its response that it intends to publish a draft nature conservation bill that will provide local communities with a stronger voice in the designation and management of SSSIs, no further action is needed.

However, it is not clear whether the Executive's proposals would also extend to the designation of SACs and SPAs, which are selected to meet the requirements of EC directives. We could agree to request further information about the Executive's proposals on that point and on other points that have been raised in the course of this morning's meeting. The third option is to agree that further consideration of the procedures is required because of their inadequacy and that we need to refer all the petitions to the Transport and the Environment Committee for further consideration.

Dr Ewing: Could we follow recommendations (b) and (c) together?

The Convener: I am a member of the Health and Community Care Committee, as is Dorothy-Grace Elder, and we will be dealing with petitions tomorrow. There is a thick sheaf of papers on petitions that are still with the Health and Community Care Committee. If the Public Petitions Committee sends petitions straight to any committee, it is likely that they will just be put on the back burner behind a long list of petitions that are still waiting to be dealt with. I suggest that, if any action is to be taken, this committee should take it. That would at least get the process moving.

Dr Ewing: That would be option (b).

Helen Eadie: I would be pleased if we could write to the Scottish Executive, as some important points must be answered. The guidelines that are published must be much more transparent, and the public must know that those guidelines could be reviewed, as that helps to empower people. That is what people feel upset about; they feel powerless in the whole scenario.

I would like to pick up on a point about objections and appeals that is mentioned in the papers that we have before us this morning. Professor Ritchie seemed to concur with the view that there ought to be an independent appeal situation that would embrace the input of people with socioeconomic expertise. In all the petitions that we have been considering, it has been

uppermost in the local community's minds that only the scientific aspects of the case, and not the socioeconomic interests, have been considered. The Scottish Executive's responses to the suggestions that have been made would be useful. We could send the Executive a copy of the *Official Report* of this morning's meeting. We know the work load of the other committees. This is a burning issue and this committee has the chance to make a difference.

The Convener: It is suggested that we ask the Executive what it means when it talks about giving a stronger voice to local communities in relation to the inclusion of SACs and SPAs, the inclusion of socioeconomic factors, and the setting up of an independent appeals procedure.

13:00

Phil Gallie: I want to go back to a point that Winnie Ewing clarified for us at the beginning. European requirements are such that SNH is not allowed to take account of socioeconomic effects. That prohibition seems to me to be disastrous, especially when we consider the fragile state of our rural communities. We should ask the Scottish Executive whether it intends to make any representations with the aim of achieving a derogation of those European requirements, or a change to the regulations.

The Convener: We can add that point to our list.

Dr Ewing: I agree with Phil Gallie. I also want to make a separate point. I wonder whether the clerk would send the *Official Report* of this meeting to Councillor Manford, who feels hurt. The *Stornoway Gazette* got a press release to say that SNH had satisfied the objectors of Barra—whereas the objectors of Barra had said unanimously at a meeting that they were not satisfied. I do not know whether SNH was responsible for that press release—I suspect not. However, poor old Councillor Manford feels that he has been named and disgraced and that his integrity has been challenged. If we could send him a copy of the *Official Report*, I think that he would be very pleased with what has come out.

The Convener: We will send copies of the *Official Report* to all the petitioners and we will draw Councillor Manford's attention to the parts that refer to him.

Do members agree with the suggestions?

Members indicated agreement.

Scottish Transport Group Pension Funds (PE500)

The Convener: Dennis Canavan has been sitting patiently all morning, so I ask members to

deal with his petition next. Members will remember that PE500 relates to the Scottish Transport Group pension funds. It outlines the actions that have been taken since we took evidence from the Deputy Minister for Enterprise, Transport and Lifelong Learning, Lewis Macdonald, and from the expert on pension law. Before we turn to the recommended actions, would you like to say anything Dennis?

Dennis Canavan (Falkirk West): Yes. Thank you very much for bringing this item forward. I appreciate that the committee has a lot on its agenda today.

I will start by commenting on the minister's response to the committee, dated 9 August. I welcome the fact that payments have now begun, but paragraph 1 in the minister's response says that he has written to the Inland Revenue on taxation matters. Lump sum payments from pension funds are normally tax free, yet, in this case, 22 per cent tax has been deducted at source from all payments to all pensioners. It is up to the individual pensioners to try to claim it back from the Inland Revenue if their other income is below the taxable level. The pensioners' counterparts south of the border received tax-free lump sum payments. Because of that, the pensioners do not see why they should be subject to tax.

As members can see from the letter, the minister still awaits a response from the Inland Revenue. I therefore feel that the committee should ask the minister for a copy of that response.

Paragraph 2 of the minister's response contains nothing new or unexpected. The £8 million was being negotiated anyway. The information is welcome but it is nothing new. We had that information before the summer recess. The Treasury is still intent on pocketing about £50 million from the surplus, as well as 35 per cent in corporation tax and 22 per cent in income tax. In other words, under the existing proposals, the Treasury will get three bites at the cherry. It will get something like 60 per cent of the total gross surplus—the lion's share. The pensioners will receive only 40 per cent so, again, there is an outstanding grievance.

I want to comment briefly on paragraph 3 in the minister's response. I welcome the change of the date of eligibility. However, there is some confusion because, in the original document that the Scottish Executive sent to potential beneficiaries, 7 June 2002 was stated as the date of eligibility. However, a commitment was given by the Chancellor of the Exchequer and by the previous First Minister on 18 December 2000—I remember the date distinctly as it was during the Falkirk West by-election—and was confirmed to interested MSPs by Executive officials at a subsequent briefing. The date of eligibility of 18

December 2000 is of great assistance to people who might have lost a relative in the intervening period. In other words, if a male pensioner has died since 18 December 2000, their widow is entitled to 100 per cent of what the pensioner would have been entitled to if they were still alive rather than 50 per cent. I welcome the fact that the minister has clarified that point, but he should make more effort to inform all the potential beneficiaries of the change of the date of eligibility.

I ask the committee not to close the matter at this stage and to ask the minister to keep us informed of any further response from the Inland Revenue. Am I right in thinking that, before the summer recess, you considered the possibility of inviting representatives of the Inland Revenue to appear before the committee or of communicating with the Inland Revenue directly?

The Convener: We would want to wait until we read the Inland Revenue's response before deciding what to do.

Dennis Canavan: I place on record my gratitude to the committee and I am sure that the pensioners would also like to do so. However, although considerable progress has been made by the Public Petitions Committee, we do not consider the matter to be closed.

Dr Ewing: This is such a scandal that it leaves me speechless, especially as the evidence that we saw previously showed us that the justification is based on a meeting that was not properly advertised and which hardly anyone attended. Everything is based on a flawed first stage, which is dreadful.

I am also left speechless by the fact that the Government tried to blackmail the potential beneficiaries by saying that, if they continued to argue about the subject, they would lose out. We cannot close this matter. We must continue to fight the injustice of the tax issue with all our might.

Dorothy-Grace Elder: I do not see how the Inland Revenue can get away with making the lump sum taxable at 22 per cent. That is not standard form and does not happen in relation to any company or governmental organisation of which we have heard. I do not think that the Inland Revenue's pension provisions allow for a 22 per cent heist from a lump sum. It is unheard of. Has a new rule been introduced?

The Convener: It is encouraging that, following the representations that were made by the committee, the minister has taken the matter up with the Inland Revenue. No one is proposing that we should close the petition. The recommendations of the petition should be pursued until we receive information about the response from the Inland Revenue.

The minister's response did not deal with the share of the surplus that the Treasury will take out of the pension fund. Perhaps we should write to him again to ask what the position of the Executive is in relation to the Treasury's claim on the proportion of the surplus. It is the view of the committee that it should be distributed to the pensioners.

Dorothy-Grace Elder: Indeed, should we ask whether a Treasury minister will appear before the committee?

The Convener: Let us find out what the Executive's view is first.

Dennis Canavan: It seems to have been Andy Kerr, the Minister for Finance and Public Services, who was involved in negotiations with the Treasury. It might be better to write to him rather than to Lewis Macdonald, the Deputy Minister for Enterprise, Transport and Lifelong Learning, who has dealt with other aspects of the matter.

The Convener: We could do that. To be fair to Lewis Macdonald, he has been good enough to give oral evidence to the committee and it is with him that we have been dealing. We can write to him and ask him to consult other ministers who have been involved in negotiations about the response. Is that agreed?

Members indicated agreement.

Bus Services (Regulation) (PE420)

The Convener: PE420 comes from Councillor Sam Campbell. As members will see from the papers, when we first considered the petition, we decided to write to Midlothian Council and to the Executive for comments. The council and the Executive have made contradictory statements about the future of bus services, particularly in rural communities. The Executive has placed its faith in the quality contract approach, which is allowed under the terms of the Transport (Scotland) Act 2002, whereas the council is of the view that it needs further re-regulation of the buses as it first argued. The clerk points out that we have an indication that the Borders area is about to present a huge petition to the committee on the same issue. It is suggested that we put PE420 on hold until we receive the Borders petition. Then we can consider them both at the same time. Is that agreed?

Members indicated agreement.

State Hospital (PE440)

The Convener: PE440 is from Mr and Mrs Dave Crichton. It deals with the fact that many people who have been assessed at Carstairs state hospital are ready to leave and move to other provision in the community. They have not been

able to do so because of the lack of provision in the community.

The Crichtons draw particular attention to the plight of their son, Darren Crichton. As members can see, there has been considerable progress since we raised the matter initially. It appears from the Executive's response that steps are being taken to address the shortage of available beds to allow patients from Carstairs to be transferred to local hospitals. It is also positive to note that consultation on options for improving services for mentally disordered patients is under way.

It is suggested that, before we reach a final decision on action to be taken, we agree to obtain the views of the petitioner on the contents of the Executive's response. At this stage, we should pass a copy of the petition to the Health and Community Care Committee for information only.

The petitioner's son, Darren Crichton, was transferred to Moray royal hospital on 22 March. That is good news, at least. Is it agreed that we seek the views of the petitioner before taking the matter further?

Members indicated agreement.

Stranraer (Protection of Jobs) (PE451)

The Convener: PE451 is from Mr Malcolm Fleming, about the survival of the Loch Ryan ports in view of the lack of investment in and upgrading of the A77 and the A75. He sought the view of the Scottish Executive, which resists strongly what the petitioner claims is the case. The Executive has made it clear that work on those roads is part of the current motorway and trunk roads programme. Thirteen schemes relating to the A75 and A77 will be developed, which represents a total investment of almost £100 million. The Executive asserts that only one other route in Scotland—the A90—will benefit from more schemes than either of those roads over the current three-year period.

On the basis of the Executive's reply, it is suggested that we take no further action, other than to inform the petitioner of the position. Is that agreed?

13:15

Phil Gallie: It is not quite agreed. The make-up of the road allocations offers little to benefit the Loch Ryan ports. A traffic survey should be carried out on the southern end of the A77. The high budget tends to be spent mainly on the upgrading at the northern end. I fully approve of that upgrading, but that is beside the point. In places such as Maybole, it is likely that a heavy vehicle will collapse into the main street one day. We should acknowledge the Executive's problems and its priorities, but should ask whether it is time to

carry out a survey on the southern end of the A77. Not so long ago, the minister was happy to visit Loch Ryan for the launch of a new vessel that will sail from Loch Ryan to Northern Ireland. It is important to emphasise the importance of that economic route.

The Convener: The Executive makes it clear in its response that, along with the north channel partnership, local authorities and ferry operators, it has been involved in work to identify alternative investment priorities that are closer to the ports. That work could result in the reallocation of funds, which would allow preferred schemes to proceed. However, no additional funding would be available for the A75 or the A77. In other words, the investment could be redirected closer to the ports, which would be of direct benefit. Would you like us to ask the Executive to expand on what it means by that?

Phil Gallie: That would be of help. I do not want the issue simply to disappear.

The Convener: We will write back to the Executive to ask for an update on the work that it has been carrying out with the north channel partnership, local authorities and ferry operators to identify alternative investment priorities that are closer to the ports.

Phil Gallie: That will do me.

The Convener: Are members agreed to the proposed course of action?

Members indicated agreement.

Autistic Spectrum Disorder (PE452)

The Convener: PE452, from James Mackie, is on autistic spectrum disorder. It asks the Scottish Executive to take a range of initiatives on the disorder. As well as the Executive's response, we have received statements in support of the petition from the cross-party group on autistic spectrum disorder and from Christine MacVicar of the Renfrewshire Autism and Asperger Group, a copy of whose letter has been circulated.

The Executive and local authorities are undertaking a great deal of work to improve the diagnosis and treatment of people with autistic spectrum disorder, including partnership in practice agreements and progress on developing a national service network. Recommendations from the needs assessment report, including the need for specialist units for people with ASD, the development of services to agreed standards, the monitoring of standards, further research and improved diagnosis and assessment were to be discussed at a national conference in May. We found out about the conference after it had taken place because there was a delay in the Executive's response.

The Executive dismisses the petitioners' concerns about the provision of drug treatment for people with autistic spectrum disorder. It is suggested that, because of the Executive's delay in issuing its response, the committee might wish to seek a further update from the Executive, which covers the outcomes from the national conference and progress on implementing the recommendations from the needs assessment report and "The same as you?" report.

I received an e-mail this morning, which indicates that the committee is about to receive another big petition on autistic spectrum disorder. At this stage, we should ask the Executive for an update. We can consider the petition further at another meeting.

Helen Eadie: I visited a centre in my constituency yesterday. It is linked to the Alloa headquarters, but it is in Cowdenbeath. I was impressed by the positive way in which people who are autistic are being dealt with there. I am told that the Cowdenbeath centre has a reputation for being one of the best centres in Scotland. I urge other interested members to visit the centre to see the kind of treatment that is being carried out. Perhaps we could discuss volunteers when we next deal with the issue, as a problem is emerging in that sector.

The Convener: Do members agree to continue consideration of PE452, pending a further reply from the Executive and the lodging of another petition on the same issue?

Members indicated agreement.

Phil Gallie: The clerk received a letter from a Trevor Lodge, who asked highly pertinent questions. Was that letter passed on to the Executive at the time?

The Convener: Trevor Lodge is a chief Executive official in the health department.

Phil Gallie: Sorry about that.

Animal Welfare (Red Deer) (PE455)

The Convener: The next petition is PE455 from Mr Alex Hogg, on behalf of the Scottish Gamekeepers Association. It calls on the Parliament to initiate an independent inquiry into the cruelty and animal welfare implications of shooting red deer out of season.

The committee has considered the petition at previous meetings. Members will remember that we agreed to write to the petitioners to ask for their formal comments on the initial responses from the Scottish Executive and the Deer Commission for Scotland. We also agreed to write to the Association of Deer Management Groups. We have received replies.

The response from the ADMG supports the DCS's position—that out-of-season culling does not necessarily imply a threat to animal welfare. The petitioners' response says that they have been in discussions with the DCS and Forest Enterprise and that they reached an agreement that both bodies would be given 12 months to address the animal welfare issues. Accordingly, the petitioners have requested that further action in relation to the petition be deferred until September 2003.

Subsequently, we received a letter from the DCS, which says that that was not how it interpreted the meeting with the petitioners. It said that there was no agreement between the DCS and the petitioners and that it had suggested to the petitioners that they should participate in the current review of deer legislation rather than pursue the petition.

The cross-party animal welfare group considered the petition, which was passed to it for information only, although it was made clear to the group that any comments that it wanted to make would be welcome. The petitioners gave a presentation to the cross-party group, which then discussed the issue and decided that it might wish to follow up some deer management issues at a subsequent meeting.

This morning, we received an e-mail from the SGA that makes the issue even more complicated. The e-mail has been circulated to members. It states:

"Dear Convenor

The SGA understand that Andrew Raven—Deer Commission for Scotland (DCS)—& Bob Macintosh—Forest Enterprise (FE)—are disputing the agreement referred to in our letter of 23rd August. With our integrity called into question, we have no option but to rescind our request to put the petition 'on ice' for a period of one year.

We should like to put on record, please, that the SGA are disappointed the DCS Chairman, Andrew Raven, has suddenly decided to discard the hand of co-operation and assistance offered to him by the Scottish Gamekeepers Association, thus forgoing the trusting, professional and friendly relationship he could have had to help him address the shortcomings in DCS Policy.

The SGA, as representatives of Scotland's Wildlife Managers, cannot allow the indiscriminate mishandling of Scotland's deer populations and the resultant animal welfare issues, to continue.

We ask therefore that our petition be sent to the Rural Development Committee for investigation of the evidence in our possession; evidence which Mr Raven needs to acknowledge if he is to fulfil his role as Chairman of the Deer Commission for Scotland satisfactorily."

Forest Enterprise's letter makes the same points as the DCS. The DCS and Forest Enterprise are on one side and say that the best way to progress the issue is by the SGA's becoming involved in the current review of deer legislation, which is meant to report next September, I think. The petitioners

have asked us to refer the matter to the Rural Development Committee for immediate action.

The DCS is to undertake a review of current deer legislation, which will involve the SGA. That would appear to provide a forum at which the SGA's concerns could be addressed in the context of a wider review. It is likely that any proposals to amend deer legislation will come before the Parliament in due course after the review, which will not be until the next parliamentary session.

John Farquhar Munro: The DCS, Forest Enterprise and the SGA should be brought to the same table so that there can be a united and co-operative effort. Scottish gamekeepers consider themselves to be masters of the field, but the Deer Commission for Scotland has been set up as a Government body to control what is happening. They should sit at the same table with a view to coming to an agreed conclusion.

The Convener: If there is no agreed conclusion, the Scottish Gamekeepers Association can always petition the Parliament again.

Dr Ewing: The letter from Forest Enterprise is rather arrogant. There is no doubt that cruelty occurred. Calves were left without mothers and that fact has simply been ignored.

Members may remember from previous submissions that the granting of authorisations seemed to be rather arbitrary. All kinds of people got authorisation to shoot out of season. Such points have not been addressed in the letter, which is arrogant, as I said.

We are told that there will be a review, but that is too easy. Anyone can say, "We're going to have a review. All will be well. We'll talk to the gamekeepers." However, the serious point about cruelty is not being addressed.

The Convener: I am informed that the Association of Deer Management Groups has said that such information on cruelty should be included as part of the review.

Dorothy-Grace Elder: The gamekeepers want us to tackle the matter urgently and not to wait for the outcome of a review. That is why they sent a representative to Edinburgh in the depths of February. I salute them for their persistence. The answers that we are getting from Forest Enterprise and the other quango do not address the issue, but are fudged. The letter from Forest Enterprise states:

"I do not accept, and have not seen any evidence to support, any allegations by the SGA about cruelty in our deer culling operations."

How dare Forest Enterprise say that? It is accusing the SGA of being untruthful, or at least inaccurate.

The gamekeepers persist in contacting us. They strike me as being very honest people. They have gone to great trouble and they obviously want action sooner than the end of the review—a review that may well be dominated by the same quangos.

We need a bit more honesty from Forest Enterprise and from the other lot—the Deer Commission for Scotland. We should write to them to ask what precisely they mean by the language that they use. Are they saying that the gamekeepers are lying about the facts that mothers are shot and that calves are left to starve, and that foetuses that are almost fully developed die within their mothers in a horrible way?

The gamekeepers have written to us and the matter is urgent. It is all very well to wait for a review, but could we please do something more urgent to help them?

Helen Eadie: Would it be possible to ask one of our number—I was thinking of John Farquhar Munro—to convene a meeting with the interested parties to talk through some of the issues to see whether we can encourage meaningful discussions? As Dorothy-Grace Elder rightly points out, there is a sense of frustration. Our mission is to be as helpful as possible. I think that John Munro would be a good steadying influence on people.

Dorothy-Grace Elder: That is a good idea.

The Convener: It is certainly open to any committee to appoint reporters to examine an issue and report back to that committee.

Dorothy-Grace Elder: More than having a reporter, Helen Eadie wants to get people round the table. That might be the best and fastest way of making progress—John Farquhar Munro could chair the meeting.

The Convener: Just to be clear for his sake, are members suggesting that we give John Farquhar Munro the remit of seeking meetings with the three bodies so that outstanding issues can be debated, and then reporting back to the committee on any progress that has been made?

Members indicated agreement.

The Convener: John, is that all right with you?

John Farquhar Munro: Yes.

Miscarriages of Justice (Aftercare) (PE477)

The Convener: PE477 is from John McManus on behalf of MOJO—the Miscarriages of Justice Organisation. The petition asks for a halfway home to help people who have been wrongly incarcerated and have served long terms in prison.

We received a response from the Executive but decided to seek the petitioners' views before

considering the petition further. The petitioners have responded by reiterating their position that it would be both inappropriate and fundamentally wrong for those who have suffered miscarriages of justice to be provided with the same statutory aftercare that is offered to ex-offenders.

The position is complicated by the fact that the petitioners have applied to the Scottish Executive for section 10 funding under the Social Work (Scotland) Act 1968. As a committee, we cannot become involved in the question whether that application should be granted. It is suggested that, although it is inappropriate for the committee to seek to influence the Executive's consideration of the application, we could agree to suggest to the petitioners that they should await the outcome of their application to the Executive before they contact the committee again. If their application is successful, I presume that there would be no requirement for further investigation by the Parliament of the issues that are raised in the petition. If their application is rejected, the committee could consider whether formally to refer the petition to the relevant justice committee, to which we could suggest that it may wish to consider the wider issues involved.

13:30

Dr Ewing: The petitioners made a very moving argument. The persons to whom the petition refers are just dumped—there is a gap in service provision for them.

The Convener: That is right. The issue turns on whether the petitioners get section 10 funding. If they do, the gap will be closed. If they do not, they can come back to the committee.

Shall we write to the petitioners to say that we will hold on to the petition until the outcome of their application is known?

Members indicated agreement.

Planning Legislation (PE484)

The Convener: The next petition is from Mr and Mrs Shields and is about the lack of clarity in planning legislation. The petition calls on the Parliament to investigate the failure to action maladministration allegations that are made in relation to planning issues.

Members will recall that, after lengthy consideration of the petition, we decided to write to the commissioner for local administration in Scotland—the local government ombudsman—and to seek his response to the issues that are raised in the petition. We have received a detailed response from the ombudsman.

It is important that I point out that the ombudsman claims that the petitioners' appeal

was rejected on the basis that there was no planning justification for granting planning permission for the proposal in question. Their request for expenses was rejected on the basis that there was no evidence to suggest that the council concerned had acted unreasonably in its handling of the matter.

I turn now to the action that it is suggested that we take. The ombudsman makes it clear that his remit is confined to dealing with complaints that relate to the administrative procedure that is used by local authorities when they reach decisions on planning. His opinion was that the main issue in the petitioners' case related to the planning aspects of the proposal. The remedy that is sought by the petitioners could be achieved only through the statutory appeals process. The proposal was subsequently dealt with through the appeals process, during which the planning authority's handling of the case, which was the petitioners' main concern, was also addressed.

Given that explanation, there appears to be no justification for any further consideration of the more general issues that are raised in the petition. It is suggested that we agree to copy the ombudsman's response to the petitioners and to take no further action. We might also inform the petitioners that we are considering PE525, which proposes amendments to the Scottish Public Services Ombudsman Act 2002, with a view to addressing perceived weaknesses in the complaints system. The petitioners commented on the lack of information in the guidance that is produced by the ombudsman to indicate that he is unable to investigate cases in which there is a statutory right of appeal. It is further suggested that we write to the ombudsman to suggest that the guidance could be amended to make that information more clear to potential complainants.

Members indicated agreement.

Separated Children (National Register) (PE492)

The Convener: We are nearly there.

PE492, which is from Mr Duncan Shields, calls on the Parliament to take the necessary steps to set up and monitor a national register of children who are permanently alienated from a parent. We considered the petition in May but agreed to defer our consideration of it until we had received responses to PE413, PE438 and PE465, which are the other petitions that we have received on parental alienation syndrome. The responses that we have to date received on those petitions are detailed in members' papers.

When the committee considered PE413, we noted the Executive's view that the judiciary is well aware, and takes account, of behavioural issues

that might be attributed to parental alienation syndrome when it reaches decisions in cases that involve children. We took that into account and agreed to take no further action in relation to PE413.

In our consideration of PE492, members will wish to consider whether the actions that are proposed by the petitioner would be appropriate. It is suggested that the introduction of a private register of alienated children would be both difficult and, more important, inappropriate for obvious legal reasons, such as the protection of children's identities.

The petitioner's other proposal—to create a public register that details legal firms and sheriffs who are involved in any legal action or decisions that cause or contribute to alienation from a parent—would also seem to be inappropriate. If each case is to be judged on its merits, a register of judges and sheriffs and their decisions would compromise subsequent decisions.

On the basis of those two arguments, it was suggested that we take no further action in relation to the petition.

Dr Ewing: I have discussed the matter with several sheriffs. It is normal practice for those who are appointed as sheriffs to be sent to a different part of Scotland. Under the shrieval code of conduct, a sheriff should not sit in a case of the sort that is detailed in the petition. We should take no further action on the petition.

The Convener: Is that agreed?

Members indicated agreement.

Domestic Abuse (Advertising Strategy) (PE496)

The Convener: The next petition for consideration is PE496, from Mr George McAulay. The petition concerns the Scottish Executive's handling of its recent domestic abuse advertising strategy. We have written to the Executive on the matter, which has replied with assurances that the words "constant threat", which were used in the advertising, have been removed from all current campaign material and will not appear in any future press adverts or posters. The Executive then outlines why it used the strategy in question.

The Executive appears to believe that the campaign material that contains the words "constant threat" is unlikely still to be in circulation. Such material was distributed on a very small scale prior to the Advertising Standards Authority's ruling. Multi-agency partnerships that were in receipt of the press packs have been asked to distribute the revised text when using any of the material in future. We may want to consider whether the small number of schools and other

organisations that have received the original videos or posters should be informed of the Advertising Standards Authority's ruling and requested to ensure that the revised text is used in future.

The Executive seems to be confident that the current figures for the proportion of male victims of domestic abuse are accurate, taking into account the probability of underreporting. The Executive appears to believe that targeting resources at female victims of domestic abuse is justified, given the scale of the problem.

It is suggested that we agree to copy the Executive responses to the petitioner and ask the Executive to ensure that all schools and organisations to which the original campaign material was distributed are advised of the ASA ruling and asked to use the revised text in future. We should thereafter take no further action on the petition.

Phil Gallie: I asked an oral question of Cathy Jamieson on this issue. The answer that she gave me was slightly different from the response that we have received from the Executive. She suggested that the videos had been sent to schools and that schools had simply been asked to make a verbal amendment. I am sure that when videos are shown teachers will forget that they contain the words "constant threat" and that they will fail to make the amendment. I do not understand why the Scottish Executive has not withdrawn the videos, which would be the best option. We should ask the Executive why it has not done that. If, as the Executive suggests, only a small number of videos were sent out, recalling them should be a relatively easy matter.

The Convener: Would you like us to ask the Executive why it has not withdrawn the videos that have been sent out and, if it does not intend to withdraw them, what practical steps it is taking to ensure that the revised text is used?

Phil Gallie: The steps that the Executive has outlined are impractical. The Executive says simply that when the videos are shown it must be explained that the phrase "constant threat" is not rational or logical. The chances of that happening are almost non-existent. We should simply ask the Executive to withdraw the material.

The Convener: Does anyone object to that suggestion?

Dorothy-Grace Elder: I am not sure. We do not know how much money went into producing the video. We do not really know that teachers will not make the verbal amendment that is suggested. The rest of the video may also be of some value.

The Convener: We could tell the Executive that the majority view of the committee is that the

videos should be withdrawn, given that only a small number of them have been distributed. The Executive might regard such a step as impractical and if so, we should ask it why. We should also ask it to indicate what practical steps it has taken to ensure that the revised text is used on all occasions. Is that agreed?

Members indicated agreement.

Cape Wrath Military Range (PE510)

The Convener: Members will be pleased to hear that the last petition for consideration today is PE510, from Monica Ross, on the Cape Wrath bombing range. The petition relates to concerns that during the summer NATO planned to use the range as a replacement for the exercise ranges in Puerto Rico.

We have now received a lengthy reply from the Scottish Executive, which sets out the legal position. It appears that the Executive does not have direct powers to organise military activity and the use of military establishments in Scotland, although in relation to Cape Wrath consultation with the local community and Scottish Natural Heritage takes place regularly. However, the Ministry of Defence does not need permission to bomb Cape Wrath.

The Ministry of Defence is aware of the local opposition to large-scale military exercises and seems to recognise the importance of fostering a good relationship with the local community. Accordingly, there is a formal arrangement to avoid range use during the peak tourist season, including most of July and all of August. Furthermore, the Executive is of the opinion that regular local consultation takes account of the potential impact on tourism in the area.

The Executive also addresses the petitioners' main concerns regarding future use of Cape Wrath by the North Atlantic Treaty Organisation and the United States Navy by confirming both that the July 2002 activity was part of a UK exercise and that the US Navy is not considering the facility as an alternative to Puerto Rico.

Given the clearly limited powers of the Executive regarding use of the Cape Wrath bombing range, together with the fact that the petitioners' major concerns appear to have been addressed in the Executive's response, it is suggested that the Committee agree to take no further action on the petition, other than to copy to the petitioner the Executive's response. It could be suggested to the petitioners that, should they wish to pursue the matter further, they should do so with the relevant UK Government minister or their local MP.

Dorothy-Grace Elder: God help them. We cannot get any information on the subject because

it is a reserved issue. Since the NATO fleets were invited to practice shelling Cape Wrath, which was sometime around February 2000, I have been asking questions in the chamber. Without consultation with the Scottish Executive, never mind the Scottish Parliament, Whitehall invited not only the US Navy, but the navies of Spain and other countries to use the northern tip of Scotland for target practice after the American fleet was kicked out of Puerto Rico following the actions of Puerto Rican people who went as far as forming a line on the targeted beach after the American navy's bombing had killed someone and flattened a mountain range. Whitehall obviously thought that Scotland would be a suitable location for NATO to test similar firepower.

I wish to register an objection to the fact that the Public Petitions Committee and the Scottish Parliament are powerless to ask questions about the state of Cape Wrath to which we will receive decent answers. In the Parliament, I have been able to ask about the effects of the shelling of Cape Wrath only by slithering around the reserved-matter problem by asking questions about the puffins that live there. At one stage, Sarah Boyack, the minister who had responsibility for the matter at the time, reassured me that the puffins were not in the least bit bothered by the shelling. That is the only sort of answer that it is possible for us to get. It is simply terrible that part of our country is under fire from various NATO member navies and that our Parliament cannot get answers to reasonable questions on the matter.

The Convener: That is the nature of the devolution settlement, I am afraid.

Helen Eadie: Dorothy-Grace Elder's words notwithstanding, the key point is that the Executive has addressed the petitioners' main concerns regarding the future use of Cape Wrath. The response states that the US Navy is not considering the facility as an alternative to Puerto Rico, which is one of the main points of the petition.

I respect Dorothy-Grace's opinion and her right to state her opinion, but we need to accept that the petition has been addressed by the Executive, which has confirmed that, as the July 2002 activity was part of a UK exercise, it would have to be addressed by UK MPs, whether we like it or not.

Dorothy-Grace Elder: We are told that the US Navy is "not considering" the facility as an alternative to Puerto Rico. That does not mean that they will stop coming here.

The Convener: I, too, have strong views on the matter: I am a member of the Campaign for Nuclear Disarmament and I am opposed to Cape Wrath's being used in this way. However, it is the nature of the devolution settlement that the

committee can take no further action. Dorothy-Grace Elder's objections will be noted in the *Official Report*.

Do members therefore agree to take no further action regarding the petition, on the basis that the response appears to address the petitioners' main concerns, and to copy the Executive's response to the petitioners?

Members indicated agreement.

Dr Ewing: Good news about the puffins, though.

The Convener: Yes, it is nice to know that they are not bothered.

Dorothy-Grace Elder: I stress that that is only the alleged position of the puffins. That is what the Scottish Executive's legal spokesperson said.

The Convener: I understand that Dorothy-Grace Elder has a report to present to the committee.

Dorothy-Grace Elder: It could, perhaps, wait until next time. We have suffered enough today.

The Convener: That is fine. I think members for their attendance and I apologise for the length of the meeting.

Meeting closed at 13:44.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 20 September 2002

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers