

PUBLIC PETITIONS COMMITTEE

Tuesday 8 October 2002
(Morning)

Session 1

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PUBLIC PETITIONS COMMITTEE

15th 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

Scott Barrie (Dunfermline West) (Lab)

Irene McGugan (North-East Scotland) (SNP)

Mrs Lyndsay McIntosh (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED :

Pat Brown (Troon Community Council)

Ross Campbell (Scottish Friends of Palestine)

Dennis Canavan (Falkirk West)

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

Christine Grahame (South of Scotland) (SNP)

Fiona Hyslop (Lothians) (SNP)

Mr Adam Ingram (South of Scotland) (SNP)

Mervyn Jones (National Federation of SubPostmasters)

Nan McFarlane (Troon Community Council)

Alexander Mitchell

Bristow Muldoon (Livingston) (Lab)

Mr Gil Paterson (Central Scotland) (SNP)

Mary Scanlon (Highlands and Islands) (Con)

Isobel Thomson

Cathy Walker (National Federation of SubPostmasters)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 8 October 2002

(Morning)

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

The Convener (Mr John McAllion): I welcome everyone to the 15th meeting of the Public Petitions Committee. I extend that welcome to Fergus Ewing, Christine Grahame and Mary Scanlon, who are here to support the petition on the post office network, which comes later on the agenda. There are no apologies.

New Petitions

Mental Welfare (Complaints Procedure) (PE537)

The Convener: The first petition is from Mr Alexander Mitchell and relates to the handling of complaints regarding mental welfare. If Mr Mitchell will take his seat, he has the usual three minutes in which to make a statement, after which we will open up the meeting to questions from committee members. Go ahead.

Alexander Mitchell: The Mental Welfare Commission for Scotland has consistently failed to address the mistakes and inaccuracies in Lanarkshire Acute Hospitals NHS Trust's final letter to me. The ombudsman has continually failed to call that behaviour to account.

In addition, the Mental Welfare Commission drew its conclusion from its own summary of the oral and written submissions that I had made. I was asked to comment on and correct that summary, which I did in detail. From subsequent correspondence, which resulted from the ombudsman's asking the Mental Welfare Commission to explain why the panel thought that no further action was necessary on a large section of my complaint, it became clear that my commentary and corrections were ignored by the commission. Consequently, the Mental Welfare Commission came to deliberate on its own interpretation of events. The supporting evidence demonstrates that the commission's initial conclusion was illogical, partly irrelevant and wholly evasive.

When the ombudsman's officer who raised those questions retired, his successor ignored my detailed account of the matter and failed to question the commission on its handling of events.

When I wrote back saying that he had shifted the emphasis in his predecessor's letter, through some inversion of devolution, my letter was answered by the London director, who explained his intervention by referring to my comments as "in the circumstances". The London director simply echoed what was said in Edinburgh. However, one difference this time was the inclusion of the views of his professional adviser to back him up. Neither that person nor the director could possibly have studied the brief that had been built up over three years.

The way in which the Mental Welfare Commission and the ombudsman have handled business has been questionable at times. The Mental Welfare Commission officer took two months to send me the results of the complaints panel meeting. When I wrote for an explanation, I was told that the complaints officer had been on annual leave. In later correspondence, the reason given was work load. The ombudsman gratuitously combined the two reasons instead of investigating them and investigating the long delay. Further lapses saw the Mental Welfare Commission mistaking the identity of one of the two officers who met me in Argyle House and the ombudsman failing to enclose important documents of mine, despite saying in a letter that he was doing so.

The trust's flawed final letter to me pays little if any attention to the initial narrative that I sent. By allowing the letter to stand as an accurate account of events and as the trust's final words on a medical disaster, the Mental Welfare Commission has either disregarded my initial narrative or paid it as much attention as it would a cocktail of lies. The actions of the Mental Welfare Commission and the ombudsman do not fulfil Mr Chisholm's aim that investigations should be carried out thoroughly, openly and fairly. They fall far short of the expectations of good governance and have been of little help to me and my family.

The Convener: I will begin the questions. You will understand that the committee cannot take on the role of ombudsman, as we are generally concerned only with the policy issues that arise. Have you any knowledge of complaints other than your own that have been mishandled by either the ombudsman or the Mental Welfare Commission?

Alexander Mitchell: The wing of Hairmyres hospital that is in question was subject to adverse publicity in the local and national press. Shall I give some detail about that?

The Convener: No. I just wanted to establish that your petition was about the system and not simply about your own complaint. Is it your desire to see the system changed?

Alexander Mitchell: Indeed, yes.

Rhoda Grant (Highlands and Islands) (Lab):

When you say that, do you mean that you want the system itself to be changed or is it the way in which people within the system deal with complaints that needs to be changed? If the people dealing with your complaint had taken more notice of your statements, would that have solved your problem, or do you want different procedures to be put in place?

Alexander Mitchell: No. If the personnel in the two public bodies had demonstrated that they were examining the issues that I had raised and coming to conclusions about them, I would have said that the machinery seemed quite satisfactory.

Phil Gallie (South of Scotland) (Con): I am not concentrating on your personal case, but I must relate to it to clarify the point that I want to raise. The trust's response to you indicates that there was a limitation in respect of your daughter's right not to communicate with you about her condition. Did that lead to complications in the way in which the trust, and ultimately the commission, dealt with your case?

Alexander Mitchell: There was one specific example of that. My daughter was a voluntary patient in Hairmyres. One of the main reasons why my wife and I decided to allow her to receive treatment was because there would be multidisciplinary meetings at which the different professional people involved with Lorna would be able to exchange views, and we would know the outcome. We thought that that was important, because it was difficult to keep tabs on Lorna's condition and her behaviour. We discussed it with the person whom I took to be the senior psychiatrist, a Dr Pelosi. He was full of enthusiasm and erupted by saying to me, "This is Government policy. This is the kind of thing they want." He was very enthusiastic and his reaction persuaded us that a different approach would be taken, so we allowed Lorna to go into hospital.

After that, we heard nothing about multidisciplinary meetings. In the infamous letter to which I referred—her final letter to me—a Mrs Henderson, the clinical trust manager, said that we could not be invited to the multidisciplinary meetings because Lorna wished us not to be. However, we should have been informed that multidisciplinary meetings were, in fact, taking place in our daughter's absence. As far as I remember, Mrs Henderson said something like, "If this was not done, I apologise."

That is one of the examples that I use to illustrate the lack of communication between the authorities and ourselves.

Phil Gallie: We cannot go into your individual case, but I am trying to assess how the system operates. The bill that became the Adults with

Incapacity (Scotland) Act 2000 was introduced in the early days of the Parliament. Were you, as a parent, excluded from communication because of the Adults with Incapacity (Scotland) Act 2000? Was another guardian appointed to whom communications were offered?

Alexander Mitchell: No. I think that the reference in the letter relates to the fact that Lorna seemed to wish to keep things secret to herself. She was never terribly explicit with her mother as far as that was concerned, but my wife could have been communicated with.

Phil Gallie: The Adults with Incapacity (Scotland) Act 2000 was about giving choice to patients if they could make up their own mind. Lorna's choice was to exclude the family. Would not that have given the trust considerable difficulty in communicating clearly with you? Do you think that it made a difference to the way that the Mental Welfare Commission for Scotland dealt with your case?

Alexander Mitchell: I think that it probably did play a part in influencing the conclusion that the Mental Welfare Commission came to. However, the important point is that the trust could have communicated to us that multidisciplinary meetings were taking place, that Lorna was refusing to attend and that we were not going to attend.

I brought up that point with the Mental Welfare Commission. Rhoda Grant asked whether it was the system that was wrong or the people in it, but the system and the machinery were there. If I had received a response from the people with whom I was dealing in the Mental Welfare Commission, or if we had been told what Mrs Henderson subsequently told us in her final letter, we would have taken Lorna out of the hospital. We regarded those multidisciplinary meetings as very important.

That was the second occasion on which that had happened. I had raised the issue with a previous specialist, Dr Rohatgi, and he agreed that it was a good idea to have multidisciplinary meetings. I never heard from the man for weeks and weeks. I telephoned him and got some information from his secretary who said that they would let us know. Nothing happened. No multidisciplinary meetings took place. That was before Lorna went back into hospital.

If we had been told that there were to be no multidisciplinary meetings, we would have taken Lorna out of the hospital and the subsequent events would not have happened.

10:15

Phil Gallie: I can sympathise with your views on communication. However, you state that you

would have taken Lorna out of the hospital. If Lorna did not want her condition referred to you, the choice of whether or not she came out of the hospital would have been hers and not yours under the Adults with Incapacity (Scotland) Act 2000. Has the legislation made life more difficult or better? Has it affected the involvement of the Mental Welfare Commission?

Alexander Mitchell: The answer to the first part of the question is that Lorna would never have decided to stay in the hospital if we had decided to take her out because she never wanted to be there in the first place. We thought that we were acting in her best interests. If we had told her we were taking her out she would have been up like a flash. Everything else she said about not letting anybody hear anything was all just part of a superficial manifestation of Lorna's desire not to communicate with anybody, either in the hospital or outside it.

Phil Gallie: I have two final questions.

While Lorna was in the hospital, did you still visit her and did she meet you?

Alexander Mitchell: My wife visited her constantly; she hardly missed a visiting time. I met Lorna when she came home on weekend passes or mid-week passes. Towards the end, she was as often out of the ward as she was in the ward.

Phil Gallie: Why do you think that Malcolm Chisholm said that you should bring the matter before the Public Petitions Committee rather than him dealing with any issues directly, especially if there are concerns about the performance of the Mental Welfare Commission or, indeed, the trust?

Alexander Mitchell: This was the second time that I had had dealings with the Mental Welfare Commission. In the first instance, three or four years ago, they turned down an examination of the case. That would have been done on the basis of the information that the Mental Welfare Commission had received from the psychiatrist. I understand that, in such cases, the psychiatrist is required to submit a report to the Mental Welfare Commission.

The procurator fiscal suggested that I approach the Mental Welfare Commission. The procurator fiscal's investigation and questioning of me led me to think and to bring together a composite picture of Lorna's treatment and care over the years, right up until the end. The picture that emerged was sloppy. That is the only word that I can think of.

The Mental Welfare Commission turned us down. That led to correspondence that took me back and forth across the central belt, being passed from one office to the other. Eventually, through correspondence with different committees and bodies, I reached Susan Deacon. The letter I

received was from her deputy Malcolm Chisholm's private secretary, John Brownlie.

He told me that Malcolm Chisholm was anxious that the public and those involved should see that the complaints procedure worked thoroughly, openly and fairly. I was also told that, as Malcolm Chisholm had no statutory right to intervene, he could not do so. However, he had examined the case in detail and was convinced that the Mental Welfare Commission should re-examine the matter.

After John Brownlie informed me of that, lo and behold, the doors were mysteriously opened again, after I had been shunted back and forward for two or three years. I went back to the Mental Welfare Commission and tried to focus the commission on the issues, initially through correspondence. I attended a meeting at Argyle House with a complaints officer, Yvonne Osman, and a secretary, Gail McKenzie.

In our correspondence, Yvonne Osman had asked me to give her an outline of the points that I would raise so that we could focus on them at the meeting. To assist her in that respect, I took two pieces of correspondence as supporting evidence: my initial narrative of the case and the trust's final letter to me, which could be regarded as its response to my initial narrative. Apart from the poor standard of English in the trust's final response, the letter contains errors, including about what the psychiatrist said, and omissions. Little response was made to the points that I had raised in my original narrative. It was as if the original narrative had not existed.

I pointed all that out to Yvonne Osman and her colleague at the meeting. We talked about it and the secretary recorded notes, which were to form part of the evidence to the complaints panel, along with the correspondence that I had provided. As I point out in my supplementary evidence to petition PE537, it emerged that none—or very little—of that evidence was put to the complaints panel.

Yvonne Osman sent me a copy of her attempt at a summary of our meeting at Argyle House. She asked for my comments and corrections. I returned my response to her. A copy of that response is included in my supplementary evidence to the committee. Gail McKenzie assured me that my response was included in the documents that were put before the complaints panel. However, following the intervention of the ombudsman, it emerged that the complaints panel received only a four-point extract from Yvonne Osman's summary of our meeting at Argyle House. The panel was not given a copy of the full summary with my comments and corrections. The explanation that I was given by the Mental Welfare Commission—

Phil Gallie: I am sorry to interrupt you, Mr Mitchell. I understand what you are saying, but you have covered the situation more than adequately in your notes to the committee. We are fully aware of your position. I thank you for the responses that you have given to my questions.

The Convener: I will summarise the situation. Lanarkshire Acute Hospitals NHS Trust badly mishandled Mr Mitchell's original complaint. When he approached the Mental Welfare Commission, it mishandled his complaint about the trust and the ombudsman also failed to investigate the complaint properly. Mr Mitchell's complaint is that the system is not working. The purpose of petition PE537 is to ask the Scottish Parliament to examine the system.

Alexander Mitchell: Yes, indeed.

The Convener: I thank you for your presentation, Mr Mitchell. You are free to sit and listen to the discussion about the petition. We will move on to discuss the suggested action.

We have been reminded that it is inappropriate for the committee to become involved in individual cases. The new Scottish public services ombudsman will soon take over responsibility for both the health service ombudsman's remit and the complaints handling functions of the Mental Welfare Commission, so an investigation by the Parliament into the performance of those bodies would be ill timed.

It is suggested that we agree to write to the Executive to seek its comments on the issues that the petitioner has raised. In particular, it is suggested that we ask the Executive to give details of any weaknesses that it has identified in the complaints handling procedures of the health service ombudsman and the Mental Welfare Commission. We may also want to ask the Executive to indicate how the new ombudsman service will address any such weaknesses and how the system will be improved. Finally, we may wish to seek confirmation that complaints will be dealt with thoroughly, openly and fairly, as recommended by the petitioner.

Dorothy-Grace Elder (Glasgow) (Ind): This case is particularly grievous, because the death of a young person is involved. I have no doubt that her father has not even had time to grieve properly because he has become involved in a dispute with people who do not appear to have done their duty with great rigour. The key questions for the health service ombudsman relate to the staffing level for investigations in the office and what the new staffing levels will be in the new system. We know that ombudsmen—or ombudspeople—process only a minority of the cases that are brought to them. The fact that the petitioner's complaint was read hurriedly and that key points were not taken

on board may be down to a lack of staff. It is a bit of a shadow show to have an ombudsman system if the time and staff to investigate complaints properly are lacking.

The Convener: We will add to our other questions for the Executive questions about the staffing levels at the time of the petitioner's complaint and about proposed staffing levels.

Dorothy-Grace Elder: The proposed staffing levels are key.

Phil Gallie: I go along with the recommendations, but Mr Mitchell has presented evidence based on a solitary case, which I suspect the committee cannot take up with the Executive. It would be reasonable to suggest to Mr Mitchell that he take his evidence back to his MSP, who will be able to raise the individual case again to obtain answers to the specific points that he has raised. I cannot understand why an MSP could not achieve that through contact with the Scottish Executive. If the committee cannot deal with the individual case, I guess that going through the MSP is the only option open to him.

The Convener: Mr Mitchell heard that suggestion.

Alexander Mitchell: To whom would the MSP address herself? Phil Gallie suggests that she could find out why there was no response, but does he mean that she would contact the—

The Convener: MSPs can raise such cases with ministers, the ombudsman service, the Mental Welfare Commission and anyone else.

Alexander Mitchell: Thank you.

The Convener: Do members agree with the recommended action?

Members indicated agreement.

The Convener: I thank Mr Mitchell for his attendance.

Post Office Network (PE542)

The Convener: Our second new petition, PE542, is from Mr Mervyn Jones, on behalf of the National Federation of SubPostmasters, on the post office network. I invite Mr Jones and Cathy Walker, who is accompanying him, to come to the table.

I welcome to the committee Fiona Hyslop, Adam Ingram, Bristow Muldoon—I think that I saw Bristow—and Gil Paterson. Non-members of the committee now outnumber members of the committee.

Mr Jones, the same rules apply: you have three minutes to make a presentation, following which I will open up the discussion to allow members to ask questions.

Mervyn Jones (National Federation of SubPostmasters): Thank you, convener. I will begin with some background information on our petition. The Government has announced that, from April next year, the recipients of benefits will have to have their pensions and allowances paid directly into bank accounts. That is a compulsory option, if you like: it is compulsory and there is no option. The result will be a 40 per cent reduction in the income of many sub-postmasters.

The Government recognised that its policy would create a problem and therefore commissioned a report by the performance and innovation unit on the future of the post office network. The report set out a future vision and made 24 recommendations, which the Prime Minister has accepted in full. In addition to recommending that a universal bank be set up so that the post office becomes the bank in the community and to recommending that a bigger and better urban network of post offices be created, the report firmly placed the responsibility for implementing three of its recommendations on the devolved Administration in Scotland. It is now two years since the publication of that report and very few of the recommendations have been implemented.

The first recommendation for which the devolved Administration has responsibility is to set up a fund to assist sub-postmasters in deprived urban areas. That fund is designed to help with additional security and to develop associated retail offers in areas of urban deprivation, thereby providing a valuable service for people in such areas. That is the less glamorous image of the post office—I am not talking about chocolate-box post offices with roses growing outside the doors. Some of our sub-postmasters in areas of urban deprivation operate under siege. They have poor working conditions and many of my Asian colleagues suffer racial abuse practically every day. We call on the Scottish Executive to announce the setting up of the fund and to ring fence it for sub-postmasters' use.

10:30

The second recommendation is to set up a pilot project to enable sub-postmasters to become Government general practitioners of information. The post office would then become a place for many people to go for information on Government services. That is the case at the moment, but the PIU wanted to formalise that arrangement and financially reward sub-postmasters for providing the service in their communities. The sub-postmaster would receive a payment for the work and generate a new income stream to offset some of the loss of income from the loss of benefit work. With that in mind, the Westminster Government

sent £3.5 million to the Scottish Executive to set up a pilot for such a scheme in Scotland. That money was never spent. I understand that Westminster cannot ring fence it, but that it goes into a consequential pot. It was never used for the purpose for which it was earmarked.

The third recommendation was to set up internet learning access points at post offices throughout Scotland. The income-generating potential for sub-postmasters from internet learning access points has never been proven, but we know that the more people who have access to the internet, the more benefits they can receive.

In addition, through the phoenix fund in England, sub-postmasters have access to a team of business advisers to help them through the difficult transition. No such scheme exists in Scotland. Scottish Enterprise classes sub-post offices as retail businesses and provides little support for our sub-postmasters. We feel that we are being disadvantaged because we operate post offices in Scotland and we believe that the Scottish Executive is dragging its heels in implementing the measures that the report recommended.

Our network of post offices in Scotland is in crisis. We call on the Scottish Parliament to declare publicly its commitment to the post office network in Scotland and to put in place policies that utilise the benefits of our post office network. We have the largest retail network in Europe. We have one of the most trusted brands in the United Kingdom. We are at the heart of every community in Scotland. We need our Parliament to support us through the uncertain times, to help us to secure a future for the network and to enable us to deliver to our customers the service that we know they value.

The Convener: Thank you, Mr Jones. Such is the support in the Parliament for your petition that a large number of MSPs are here this morning. I will take members in turn and ask them to make brief comments in support of the petition.

Mary Scanlon (Highlands and Islands) (Con): I very much want to support the petition. I think that it was Robert Brown who, about a year ago, secured a members' business debate specifically on "Your Guide", although I am not sure whether he raised the issue of the £3.5 million that was allocated for investment in the post office network. When the Minister for Environment and Rural Development replied to the debate—which, like this meeting, was well attended—he chose not to mention the implementation of "Your Guide" in Scotland.

I know that Cathy Walker has a post office in Inverness and I know how areas in the Highlands are affected. Barely a week passes without Highland MSPs receiving a letter about the closure

of another post office. People do not want to start up in business as a sub-postmistress or sub-postmaster because they see no future in it. I acknowledge that post offices are in crisis. We have many crises in the Highlands, what with general practitioners and everything else, but the crisis in post offices is another one.

I would like the Public Petitions Committee—I am sure that it is planning to do so anyway—to ask the minister what has happened to the £3.5 million. I would like it to ask him about the Executive's commitment to "Your Guide" and to the idea of post office staff being Government general practitioners, as was mentioned about three years ago in an Executive booklet on the rural framework. The Executive has cunningly passed over a commitment to the post office network in Scotland.

"Your Guide" could provide for access points so that people can find out where services are. A post office can be a service point, it can be where you pay your council tax and it can be a tourist information centre. Many opportunities exist, but we seem to be allowing the post offices to wither on the vine.

Christine Grahame (South of Scotland) (SNP): Hello, Mervyn. I have lodged parliamentary questions on some of the issues that have been raised; I have probably got an answer about the £3.5 million and I am trying to find it.

There are some points that you have not raised today but that you have raised with me previously. One was about rates relief for post offices and perhaps you could explain—

The Convener: Christine, this is just your chance to support the petition before we open up the meeting to questions.

Christine Grahame: I am so sorry. I support the petition, but I know that other issues arise. For example, rates relief for small post offices is not universal and post offices recycle money locally. I had not previously been aware of that latter point. Local shops put money into the post office and that money is then recycled and paid out into the neighbourhood. The post office therefore works as a kind of banking system. Not enough publicity has been given to universal banking and many people do not know about it.

I know from a parliamentary answer that the phoenix fund cannot assist sub-post offices because that would be regarded as retail assistance. However, that does not take into account the fact that post offices are multifaceted, especially in rural areas. The post office can have a social function, a banking function, a retail function and a social inclusion function.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I am pleased to speak in support of the petitioners and I am pleased that Cathy Walker has made it down from the Kingsmills Road post office in Inverness.

I have three brief points in support of the petition. First, in many parts of Scotland, sub-post offices are a vital part of the local community. For many people, particularly the elderly, they may provide the only point of social contact. They may also be an early warning system if an elderly person does not turn up for their pension when expected. The loss of sub-post offices seems to be accelerating and we will see serious social consequences. There will also be economic effects on sub-postmasters and their staff.

Secondly, I am mystified as to how there can be no assistance for rural sub-post offices. We have heard about a special fund for areas of urban deprivation, which we support, but why is there no counterpart for rural sub-post offices? That is blindingly obvious discrimination against rural Scotland.

My third point is the key point. In the material that we have received from Mervyn Jones, he points out that, as from April next year, sub-post offices will lose between 30 per cent and 70 per cent of their business. That is tantamount to a notice to quit for sub-postmasters throughout Scotland.

It seems to me to be blindingly obvious that, if a business loses between 30 and 70 per cent of its income, that business will cease to exist. For the past two years, the Government has provided no information on how its actions will affect sub-post offices. I hope that the petitioners will have an opportunity to say whether the Labour Government is pushing away business from sub-post offices to banks, even though after April sub-post offices are supposed to be able to compete on a level playing field with banks. I believe that to be the case, but application forms do not even give folk the opportunity to have their benefits paid into a sub-post office.

The Labour Government is trying to terminate sub-post offices—full stop. I hope that the Scottish Parliament will take an extremely strong view on the issue.

Mr Adam Ingram (South of Scotland) (SNP): I endorse Fergus Ewing's comments. The last point that he made is very important. Several times we have tried to raise the issue of post offices in the Scottish Parliament and with ministers. To date, we have been fobbed off—notably with regard to the £3.5 million in funding consequential that went into the Executive pot and was spent on other things. That money is no longer in the Executive budget. Mervyn Jones indicated that we

must find out what has happened to the £1.5 million that was set aside to support post offices in deprived urban areas. The Executive also received a funding consequential from Westminster for the phoenix fund.

We must tease out those issues with the Executive. We must insist that the Executive meets its obligations under the PIU report. To date the Executive has hidden behind the notion that post office matters are reserved to Westminster. However, the material issued by the PIU makes it clear that devolved Administrations have responsibility in the three areas that Mervyn Jones highlighted. We need to get to the bottom of this matter quickly, because time is running out for us to replace the income streams that sub-post offices will lose next April.

Helen Eadie (Dunfermline East) (Lab): Over the past month, I have observed that the Scottish Executive has run an extensive advertising campaign in the newspapers to encourage anyone who can provide public access to their premises to apply for a free computer and free internet access. To what extent has the post office network responded to that initiative?

Mervyn Jones: Scottish Borders Council tried to implement such an initiative in the Borders. However, the income-generating potential of the scheme is minimal. A sub-postmaster may charge £1 an hour for access to the internet. It would be better for them to use the retail space that is required to provide internet access to sell tins of beans.

We want to provide a service and we do so. The "Your Guide" scheme was much better, because it was not limited to the provision of internet access. With the convener's permission, I will provide members with a couple of examples of what the scheme could do, as that will give the committee an idea of why it was much better.

The "Your Guide" pilot allowed the public to access a variety of Government information. One of the pilot's biggest successes was an increase in the uptake of the minimum income guarantee. There are millions of pounds in the system waiting to be claimed. If uptake increases, people have more money in their pockets that they can spend in the local butcher's shop and the local baker's, which are valuable assets not just in rural communities, but in all communities.

For instance, imagine that a person wants information on Alzheimer's disease, from which, unfortunately, many of our customers suffer. The person could walk into a post office and, on a touch-screen computer system, touch "Health", "Degenerative Diseases", "Alzheimer's Disease" and the machine would print a leaflet on that disease. The system would allow people who

need information to get it when they want it and in an easily accessible way. At the moment, in local hospitals, hundreds of leaflets lie around the foyer. That costs a fortune and only a few people—those who go to hospital—have access to the information.

10:45

In addition, it might be possible to have mail-order catalogues on the system. For instance, a person could access the Marks & Spencer catalogue, order a product and pay the sub-postmaster at the counter, who would e-mail Marks & Spencer's dispatch department. The goods could then be sent by post to the customer's door. Scotland has one of the highest uptakes of mail-order business in the United Kingdom because of the logistics of accessing large stores.

Imagine that every bed and breakfast in Scotland was on the system. A person in Inverness who was coming to Edinburgh could go into a post office, access information on bed and breakfasts, look at pictures of them, lift the telephone—there would be a dedicated telephone system—and book the accommodation.

The potential for the system is enormous. I firmly believe that by not taking part in the pilot the Scottish Executive has lost a tremendous opportunity. There is a perception that the Parliament does not connect with people in Scotland. The Parliament has produced reports that say that people are not aware of what happens in the Parliament, but such information could be put in every post office in Scotland. The Parliament could have access to and connect with the people. The system was a tremendous opportunity, but with the advent of direct payments it might be too late to generate an income stream to support it.

To respond to one of Mr Ewing's points, the issue is not only about rural post offices; it is about all post offices. Every post office in Scotland is under threat. The image of Mrs Goggins collecting her pension in a rural village in Scotland has a certain appeal. However, in other areas, people collect their benefit and go to the local pharmacy to get a dose of methadone. That is not glamorous, but such post offices have just as much value to the community.

Helen Eadie: Last night, I used a public access point, which was part of a scheme that Elaine Murray launched in my area last Thursday. Everything that you have outlined can be done from such access points. The system can be provided by any postmaster and would provide public access throughout Scotland. How many of your members have applied to be part of that scheme?

Last night, I demonstrated the features to at least half a dozen of my constituents, who had come to my advice surgery. The scheme allows people to get information about the Scottish Parliament, to download stuff, to pay through the internet for things that they want to order and to send e-mails, all free of charge. Tuition is available on site. The fundamental question is how many of your postmasters and postmistresses have applied for access to the scheme, which is available from the Scottish Executive and which has been advertised extensively in newspapers.

Mervyn Jones: I do not know the answer to that question, but I want to ask a question in response. What would the income-generating potential be for sub-postmasters? We have to run profitable businesses to provide the service in the community.

Helen Eadie: You have given the answer. You have said that you would like to have terminals and computers in the post offices. The postmaster could provide facilities for pensioners who do not have credit cards—many pensioners do not believe in using credit cards. The postmaster could be creative in the way in which they organised their business. When I used to go to collect family allowance, I saw that all the casual purchases that customers made when they came into the post office generated business for the postmaster. It is not just the benefits that generate income, but all the other purchases. That is one of the arguments that I have read in your literature.

I support your fundamental premise that we should provide much more public access to the internet. I am not against what you are saying. All I am saying is that there are facilities within the system at the moment that can be used. I am concerned that too many people do not realise that public access is available and that the Scottish Executive will provide funding for the terminals.

The Convener: A long list of members is waiting to ask questions. I ask that questions and answers be kept as brief as possible. The other petitioners who are here have rights as well.

Mervyn Jones: The scheme that I know of in the Borders provided internet access that was similar to what is provided in an internet cafe. The income-generating potential of that system is minimal and would not support the network.

Rhoda Grant: I want to ask about "Your Guide". As you will be aware, in many areas of the Highlands there are small post offices that are only post offices and cannot sustain shops. The people who live in those areas do not have access to information on Government services such as the health service and benefits. Could "Your Guide" be extended to enable people to find out more

information about local government services? There is a phone line. Would people be able to look people up and contact them? In the bigger villages in the Highlands, there are service points where local government has a face-to-face office for communities. Could post offices take on that role for local government and health boards in more remote areas where it is not feasible for such public organisations to have offices?

Mervyn Jones: I will ask my colleague to answer that question, because she represents postmasters in the Highlands.

Cathy Walker (National Federation of SubPostmasters): I believe whole-heartedly that post offices in the Highlands would benefit greatly from an extension of "Your Guide". There are only 31 service points in the Highland Council area and those are in the areas of denser population. We have many post offices in remote isolated communities. It would be absolutely ideal for those post offices to take on the role that you have suggested. In those communities, whether large or small, the post office is the focal point. The post office is seen as an advice bureau everywhere, without exception. We give verbal advice every day, but, sadly, we are not paid for it. We often give advice on subjects about which we know little, but we would never turn anyone away and say, "Sorry, I can't help you." We would bend over backwards to find them a contact number or do whatever we could. The extension of "Your Guide" would be an excellent advantage to post offices in the Highlands, whether in large or small communities.

Dorothy-Grace Elder: I wonder whether you see this matter as part of a wider rundown of the Post Office and whether you have linked up with any of your union colleagues. As you are aware, the Scottish parcel service will be transplanted almost entirely to the hub at Coventry and Scottish wages are already being paid through Leeds. Major post offices also have to order cleaning materials through Leeds. Five new sub-centres for handling parcels are being built in the south, but nothing is being built in Scotland. Is your plight part of a wider threat to, and rundown of, the Scottish Post Office and, if so, will you link up with some of your colleagues in the unions, who are fighting that issue separately?

Mervyn Jones: Although Parcel Force and Royal Mail have an impact, the post office network in Scotland is the issue about which we are deeply concerned. The deregulation of postal services will obviously have an impact, but certain guarantees are attached to that in relation to the universal service obligation and the standard price tariff, which will mean that each household in Scotland will still have a delivery for 27p six days a week.

However, Parcel Force services are not covered by those guarantees. In certain areas of the Highlands, a surcharge is being levied for Parcel Force deliveries. That will have an impact on the cost base of businesses in those areas. Parcel Force prices do not differ greatly from the prices of other carriers.

Dorothy-Grace Elder: Does the position of sub-postmasters form part of a wider picture? The other sides of the Post Office are being pulled out. A massive parcels office is due to close in Glasgow.

Mervyn Jones: The plight of sub-postmasters is directly associated with the Westminster Government's decision to get customers to migrate away from our counters. The migration strategy of the Department for Work and Pensions is underhand. I am reluctant to describe it in that way, but that is what it is. If members would like me to describe what is happening, I would be happy to do so, but I am conscious of the pressure of time.

The Convener: Many members are waiting to ask questions. People understand the implications for post offices of what the DWP is doing.

Mervyn Jones: My concern is that the migration strategy is not giving the public the choice. Cathy Walker and I, along with the many hundreds of sub-postmasters who are in their offices this morning, are not against benefit claimants having their pensions and allowances paid into the bank. It is their right to choose that. However, we are firmly opposed to the Department for Work and Pensions' deliberate policy of not giving people the full information.

One of the three options is to open a Post Office card account. If our customers elect to do that, the cost of the account falls to the DWP. However, if they have their pensions paid directly into a bank account, the cost of maintaining that account falls on the banks. In an underhand way, the DWP is deliberately making people migrate away from the Post Office. We have served those customers well for many years; they value the services that we provide. The DWP is moving people away from our counters not because that is of public benefit, but because it is the cheaper option.

The Convener: I have allowed you to put that point on the record.

Mervyn Jones: I appreciate the fact that you have allowed me to do so.

Dr Winnie Ewing (Highlands and Islands) (SNP): I agree with much of what has been said and I am upset. When I represented the Highlands and Islands in the European Parliament I visited all but three of the 90 inhabited islands. I visited most of them many times and I always visited the post

offices. Although some island communities were fortunate enough to have significant populations, some were socially dependent on their post offices. I have been struck by the points that have been made about social importance.

We are dealing with one of the most trusted institutions throughout the length and breadth of Europe. The fact that sub-postmasters do not turn people away when they seek a means of help has created total trust. It is absolutely incredible and disgraceful that any Government could imagine destroying that. We all agree that the issues surrounding the execution of the matter are reserved. There is no doubt in your mind about that.

Mervyn Jones: Do you mean the migration strategy of the DWP?

Dr Ewing: Yes.

11:00

Mervyn Jones: Yes, the matter is reserved and the Scottish Parliament can have no impact on it. However, I hope that members will use their influence with the UK Parliament. I had a meeting yesterday with Stephen Timms, the minister who has responsibility for the Post Office. There is no movement from the Department for Work and Pensions with regard to the strategy. Any pressure that the Scottish Parliament can put on the Westminster Government and the Department for Work and Pensions not to have our customers jump through lots of hoops to use their local post offices would be welcome. They are making it as difficult as they can and are placing obstacles in the way of people who are signing up to our post offices.

The Convener: What you are asking is now on the record. I suggest that we return to devolved issues.

Dr Ewing: I move on to my second question. Some post offices—but, as you say, not all—include retail operations to raise their incomes. If income is to drop by between 30 and 70 per cent, will not that affect their ability to provide a choice of retail goods?

Cathy Walker: If there were a retail side, the drop in income to the post office would affect not only the post office. If people were not coming to use the post office, they would not be using the retail side. If the post office were situated where there were other shops, those shops would suffer tremendously as well. We live in a card-dominated society, but we still pay with cash for our rolls, newspapers and the basics of life. Who knows what the impact would be? We would not lose only our post offices.

Phil Gallie: You may recall that petition PE513 addressed similar issues. Winifred Ewing's

comments were endorsed when we discussed that petition, and we recognised the post office system's social importance to communities. A response to that petition will be discussed later today, but I refer to one element of it now.

You suggest that a strategy seems to have been established by the Westminster Government for rural post offices in England and Wales, which outstrips anything that has been offered in Scotland. Can you tell us what that involves?

Mervyn Jones: I am told by my colleagues in Wales that the Welsh Assembly has set aside £500,000 to help all post offices in Wales. It is currently working on how that money should be spent, but the money will be spent before the beginning of the next financial year. It is one of a number of funding blocks that will be released to help take sub-postmasters from where we are today to where we are going in future—the bank in the community. I have absolutely no doubt that we will achieve that vision. My big worry is that many of my colleagues will not see the achievement of that vision because of the unviability of their outlets. We ask the Scottish Executive to establish policies that actively support our sub-postmasters—not just those in rural areas, but all sub-postmasters in Scotland.

Phil Gallie: You refer to funding that was made available to the Scottish Executive by the Westminster Government. Is that the kind of funding that the Welsh Assembly made available when it made that provision?

Mervyn Jones: I cannot answer that question. I think that the Welsh Administration set aside that money from its own budget. The money that came to the Scottish Executive was for the "Your Guide" pilot scheme or a Government general practitioner pilot scheme and to set up a deprived urban areas fund. The phoenix fund that exists in England employs teams of retail advisers who advise sub-postmasters where to access funds, how to set up a retail business, how to improve their retail offer and how to improve the profitability of their post offices.

Rural post offices that are under threat can apply for assistance from a £2 million fund that was set up to assist sub-postmasters in the UK. However, there have been only three applications from Scottish sub-postmasters and I believe that that is because our sub-postmasters do not realise that the fund exists.

Phil Gallie: I referred earlier to PE513 and note that the Executive has been pursuing certain issues with the Postal Services Commission—Postcomm—and Consignia to protect universal postal services to some degree. However, Postcomm's recent announcements on the matter seem to cut across the interests of rural post

offices in particular. No doubt you are fully aware of the situation. Would you care to comment on it?

Mervyn Jones: I certainly would. Last week, I had the good fortune to have lunch with Martin Stanley, Postcomm's chief executive. I recommend to the committee that organisation's latest annual report, called "Access to Post Office Services: Time to Act". We have been sitting on the matter for two years now, and the report's conclusions on the policies that affect sub-postmasters are about as critical of the Government as a Government-appointed regulator can be.

Phil Gallie: The Executive's response to petition PE513 refers to difficulties that it would have with European regulations if it gave assistance to post offices. What is your view on that?

Mervyn Jones: Are you talking about subsidies?

Phil Gallie: Yes.

Mervyn Jones: I want to make it clear from the outset that our sub-postmasters do not want to live on subsidies. Instead, we want the market price for our work. If we achieved that goal, subsidies would not be required.

Phil Gallie: I am not talking about direct subsidy. The kind of service that you were suggesting could be offered through the Post Office but, for example, any service involving information technology would have to be funded by the Government. However, European legislation would seek to ensure that any such business was put out to tender, which means that you would be in competition with other small shops and retailers.

Mervyn Jones: I am not talking about a subsidy, but payment for services. As a result, no application for European funding would need to be made.

As for putting services out to tender, we in the sub-post office network have no qualms about going out to tender for any business. The strength of our network is its reach. Every community of any size in Scotland has a post office; indeed, 95 per cent of the UK population lives within a mile of a post office. That is a very powerful statistic.

The Convener: I did not pick up the amount that you said that the Assembly for Wales had put aside. Did you say £500,000?

Mervyn Jones: I do not really know whether I should have mentioned that, because I am not 100 per cent sure that it is public knowledge yet.

The Convener: It is now.

Mervyn Jones: If it helps the committee to reach a similar decision, I am prepared to take the

risk. Last week, my Welsh colleagues informed me that they had met their devolved Administration and are currently working on the parameters of the fund's distribution.

The Convener: You said that most of your members are unaware of the £2 million UK fund for post offices that are in danger of closure. Could your federation play a role in making them aware of that fund?

Mervyn Jones: It certainly could. However, when paid advisers from the phoenix fund are able to visit a sub-postmaster in his own office and advise him how to set up his business to maximise the footfall that is generated by the post office and how to market and merchandise that business, it is clear that sub-postmasters in Scotland are disadvantaged because that service is not available to them.

The Convener: We now move to our discussion of the petition, to which Mr Jones is free to listen.

I note that the members who have just come in do not have the relevant papers, so I will have to read out what is in front of me. Let us turn to the suggested actions. First, it is suggested that we acknowledge the petition from Phil Gallie MSP, PE513, for which we have a response, and which we will deal with later in the meeting. It is suggested that we link our consideration of PE513 to that of PE542. Is that agreed?

Members indicated agreement.

The Convener: Having agreed that, it is suggested that we write to the Scottish Executive seeking its comments on the issues that are raised in the petition, while acknowledging that there might be some crossover with some of the information that has been provided in response to Phil Gallie's PE513.

There are a number of things that we may request. First, we could ask the Executive to comment on recent statistics from the Scottish Parliament information centre, which suggest that sub-post offices in Scotland are closing at a rate of two a week, and asking the Executive for details of any measures that it is taking to avoid such closures. Is that agreed?

Dr Ewing: Could we add that there is to be a drop in income of between 30 per cent and 70 per cent?

The Convener: Yes, we could add that statistic.

Secondly—

Dorothy-Grace Elder: Excuse me, convener. I would like a point of information from the petitioner. How many sub-post offices do you estimate have closed already?

Mervyn Jones: I can say with absolute certainty that 90 post offices closed in Scotland between

April 2000 and April 2002. Consignia is implementing its best efforts to stem the number of closures, and I must say that the closure rate has reduced dramatically.

Dorothy-Grace Elder: Does that cover urban and rural post offices?

Mervyn Jones: Yes. However, another problem is that some post offices used to be open full time, whereas we now find that they are open only two mornings a week, so their service to the community is greatly reduced.

The Convener: We will make points about the 30 to 70 per cent decrease in business, the fact that 90 post offices have closed down over the period that Mervyn Jones mentioned and that many of the post offices that have survived are now operating part time.

The second recommendation is to ask the Executive for an indication as to whether the Government general practitioner pilot in post offices is likely to be rolled out throughout Scotland in line with the recommendations of the performance and innovation unit—the PIU. We could also ask the Executive to comment on the petitioners' claim that only a small proportion of the £3.5 million funding that was allocated for such trials was actually used for that purpose by the Executive. Is that agreed?

Members indicated agreement.

The Convener: The third recommendation is to ask the Executive for details of any action that it has taken to support the development of internet learning and access points within post offices in Scotland, in line with the PIU's recommendations, and to ask it to confirm whether it would encourage post offices to apply to become Scottish University for Industry branded learning centres, if indeed they qualify to do so. Is everybody happy with that suggestion?

Dorothy-Grace Elder: I suggest that we add the points that Mary Scanlon and Fergus Ewing made about tourist information services. Those are immensely valuable, and could partly enable post offices to access the phoenix fund. That would address the retail side, although I am not sure whether partial access to the phoenix fund is permissible.

The Convener: That was the next point. We accept that we will add information about tourist information services.

The final recommendation is that we ask the Executive for details of the rationale behind its decision not to implement in Scotland an initiative similar to the phoenix fund in England, given that post offices do not, as retail outlets, qualify for business support services from Scottish Enterprise. It is also recommended that we ask the

Executive for comments on the petitioners' calls for a change in policy at Scottish Enterprise to enable the provision of such support in line with that which is supplied by the Highlands and Islands Enterprise network.

Phil Gallie: We should really push for that. Scottish Enterprise is essentially doing the job that is covered by the phoenix fund in England. It should be able to pick up on that.

Mr Ingram: I understand that there has been a funding consequential from Westminster in relation to the phoenix fund. It is similar to previous Government gateway proposals. We need to tease out from the Executive whether it has that funding, and whether it will apply it to helping the post office network.

The Convener: Are you suggesting that we ask the Executive for information about any funding that has been passed from Westminster specifically for the purpose?

Mr Ingram: Yes.

Phil Gallie: Was not that part of the £3.5 million?

Mr Ingram: No.

Dr Ewing: I would like to ask the Scottish Executive whether it is aware of the social implications that have been mentioned, such as the fact that the elderly are given a kind of protective shield by using their post offices. It is a unique and valuable contact and it provides an early warning system. The social advantages must help the whole community. We must add a point about the social implications of closures.

The Convener: We will ask the Executive whether it has carried out any assessment of the social implications of not stemming the closure of post offices throughout Scotland.

Christine Grahame: In a parliamentary answer to me on 1 July, the minister replied:

"As part of a broad strategy aimed at providing support for communities in deprived urban areas, ministers are currently considering ways in which post offices located in these areas might be assisted. I will provide further details of this initiative shortly."—[*Official Report, Written Answers*, 1 July 2002; p 1062.]

Has he done that? You may want to refer him to that parliamentary answer.

11:15

The Convener: We will refer him to that answer and ask him what has happened.

Rhoda Grant: Could we also ask that the Executive examine the feasibility of using post offices for providing local government and central Government services, as well as services from

health agencies and others? That would be of benefit to those who live around the post offices as well as to postmasters.

The Convener: We will ask the Executive whether it has considered the feasibility of allowing people to access local government and health services through post offices.

Rhoda Grant: We should also ask about central Government services.

The Convener: Do members agree to make those points in our approach to the Executive?

Members indicated agreement.

The Convener: I thank the witnesses for their evidence this morning. We will keep you informed of the progress on the petition.

Elderly People (Residential and Respite Care) (PE551)

The Convener: We move on to the third petition, which is from Mrs Pat Brown, on the care of the elderly. Mrs Brown, Ms Nan MacFarlane and Ms Isobel Thomson should be with us. I ask them to come forward and take their seats.

The petition calls on the Scottish Parliament to investigate whether local authorities are interpreting the legislation and policy documents regarding care of the elderly in an appropriate manner, as opposed to using recent legislation as a means by which to reduce their financial and social obligations.

We will follow normal procedure: the witnesses have three minutes to make a statement, then the meeting will be open to questions.

Pat Brown (Troon Community Council): I speak on behalf of the residents of St Meddans Court in Troon and their families. South Ayrshire Council decided to dispense with residential and respite care facilities for the elderly in Troon and the residents and their families were told about the decision only in March this year. It is our understanding that the council's decision was based principally on its interpretation of the Regulation of Care (Scotland) Act 2001 and the Scottish Commission for the Regulation of Care's requirements together with a best value review and Scottish Office circular SWSG 2/97, a directive that recommends that councils move to independent sector provision to provide care for the elderly as a means to achieve cost benefits.

St Meddans Court is currently home to 12 frail elderly people. The residents expected that it would be their home for the remainder of their lives. The demolition of St Meddans Court and the transfer of land to Hanover (Scotland) Housing Association will essentially deprive them of their homes. We believe that that action by the council

is contrary to article 8 of the European convention on human rights. The demolition will also isolate the adjoining 24 sheltered housing accommodations and will, in effect, remove the present laundering and meal services and informal 24-hour supervision. Compensation for that will be in the form of home-care packages that will in no way attain the present level of services.

South Ayrshire Council has used current legislation to discontinue services and facilities for the elderly by relinquishing its responsibilities to provide residential and respite care.

Troon Community Council believes that the Regulation of Care (Scotland) Act 2001 is seriously flawed if South Ayrshire Council, from its analysis of the legislation, can take action to close established residential care homes. We are here today to request that the committee investigate whether that act and associated policy documents are flawed and open to misinterpretation and whether they are being used as a means to reduce financial and social obligations. We ask that the committee consider the possibility that South Ayrshire Council has breached the ECHR.

The Convener: Before I open up the meeting to questions from committee members, I will let Adam Ingram say a few words because he is here in support of the petition.

Mr Ingram: I have visited St Meddans Court and I can confirm that it has a high reputation in the area. The facility is relatively new, being about 25 years old, so I suggest that it is very much up to scratch in terms of what it provides for the residents. I accept that it might not be up to the full standards that were laid down by the Regulation of Care (Scotland) Act 2001, but that could be rectified fairly easily. The council says that it would cost a lot to do that job and blames the Scottish Parliament for introducing the Regulation of Care (Scotland) Act 2001. The council is using the act as an excuse for shutting down the home.

If the issue is considered in the context of the council's wider policy, it appears that the council is seeking to get out of providing any services that can be provided by others. The council wishes to concentrate on its core services and does not see the provision of care to elderly citizens as a core service. If members will cast their minds back to the Ayr by-election, they will recall the incident of the closure of the Carrick Street halls. The closure of St Meddans Court is a continuation of that policy.

The question for the committee is whether the Regulation of Care (Scotland) Act 2001 was introduced to close the residential homes that are run by councils throughout the country. I am quite sure that members of the Health and Community Care Committee, for example, did not foresee that.

I hope that we can make representations to ensure that the situation is corrected. We must be sure that Regulation of Care (Scotland) Act 2001 does not impose insuperable burdens on local authority residential care homes.

The Convener: As a member of the Health and Community Care Committee, I can say that that was certainly not the intention when the act was passed. Do members have any questions?

Phil Gallie: I welcome the petition, as it allows us to consider the issue, but does the petitioner accept that the administration of South Ayrshire Council has the right to close the St Meddans Court facility if it so desires because of costs, provided that it can ensure provision of social services to the residents?

Pat Brown: No, I do not agree entirely that the council has such a right. The council has a right to close the facility only if it has good reason for doing so, which it does not. The council has interpreted the act and the other documents that I mentioned in a certain way. The council's decision is based on costs. To date, it has suggested no alternatives for the elderly residents and there has been no communication with the residents or with their families. The only consultation—the council called it consultation; we do not—was the council having one meeting with the residents and families. There has been no communication since then. I do not accept that South Ayrshire Council's interpretation of any of the legislation, or the actions that it has taken as a result of that, are correct.

Phil Gallie: I was trying to separate the matter into two divisions. The cost allocation, as far as I can see, would be the responsibility of South Ayrshire Council and an issue that the democratic process sorts out in the long term. I agree with Adam Ingram that the quality of the buildings and the care levels that are provided at St Meddans Court over a number of years have been excellent—they are in the right place and are the right kind of accommodation. It is a tragedy that those facilities will be closed.

South Ayrshire Council has given assurance after assurance to politicians of all hues that the reason for the closure relates to the regulation aspect. The Parliament, however well intentioned, might have come up with the Regulation of Care (Scotland) Act 2001, but what lies beneath the bills that we put through the Parliament is always important, and the best of intentions frequently turn sour. Are the regulations the basis of the problem that we face at St Meddans Court?

Pat Brown: Yes they are, because the regulations are open to misinterpretation. The national standards that have been produced as a result of the Regulation of Care (Scotland) Act

2001 are partly to blame. Initially, the regulations were extremely concise on what they required, but it has since been realised that many of those requirements are not needed and are not practical. South Ayrshire Council's interpretation should apply to new build; the national standards that were issued initially do not apply to existing homes, particularly good and well-structured existing homes. I blame the Regulation of Care (Scotland) Act 2001 because it is open to interpretation.

Phil Gallie: There is something very positive in what you have just said about the national standards. Before I pick up on that point, are you aware of any other homes in the area, or in any other part of Scotland, that are closing as a consequence of the new regulations?

Pat Brown: I could not be specific about other parts of Scotland, but I know that homes are closing. That seems to be the trend in England too, although that has nothing to do with the Scottish act. South Ayrshire Council has already closed a home in Ayr and there are proposals to close a home in Girvan—it is not a home for the elderly, but the principle is the same. The council proposes changing that home and altering it quite drastically.

Phil Gallie: You highlighted your concerns about elements of the Regulation of Care (Scotland) Act 2001, which the committee could refer to the Executive for further comment. You also referred to the national standards. It seems to me that those national standards could be changed relatively easily if, from your perspective, the flawed standards could be identified. Could you give us one or two examples of such flaws?

Pat Brown: One of the standards is very specific; it covers the size of rooms and stipulates that all people must have single rooms with full en-suite facilities. At first it was thought that that standard was to apply to all physical accommodation and that is the way in which South Ayrshire Council has interpreted the standard. However, any member of the Care Commission will tell you that that standard is not required except in new builds, which is understandable. If a home is reasonable and in good condition, and partly meets the standards to the satisfaction of the Care Commission, that is quite acceptable. Although the standards have been laid down, they are open to question.

Dr Ewing: You have referred to a meeting in April. Does the local authority regard itself as having a duty to consult? Did it hold that meeting because of such a duty?

Pat Brown: The first meeting that we had was at the council's request. After that, we instigated a public meeting. I do not think that the council feels

that it has a duty, because its consultation process—if it could be called that—was practically non-existent.

Dr Ewing: Such a process does not seem to have taken place.

Pat Brown: It did not.

Dr Ewing: Assurances were given that residents would be moved to other accommodation, but silence has fallen since April. Is that the position?

Pat Brown: Exactly.

Dr Ewing: During your opening statement, I was saying goodbye to some of my local postmasters, and I came back just when you mentioned human rights. What did you say about human rights?

Pat Brown: I would like the committee to consider the fact that South Ayrshire Council might have breached the Human Rights Act 1998 on the expectation of a home for life and on consultation.

11:30

Helen Eadie: Will you say a little more about the Scottish Commission for the Regulation of Care? Our briefing paper says that, under the Regulation of Care (Scotland) Act 2001, the commission automatically registers all residential homes for the elderly pending a first inspection, when facilities will be assessed. The briefing paper says that, thereafter, the commission would grant an application for deregistration only if it were satisfied of the reasons and that residents had appropriate alternative accommodation. Have you had discussions with the commission? How does that relate to liaison between the council and the commission?

Pat Brown: I received that information from a member of the commission. South Ayrshire Council has said publicly that if it does not demolish St Meddan's Court and leaves the building as it is, the care commission will not register St Meddan's Court and will close it down. That is almost a quotation. The council omitted to tell us that St Meddan's Court is automatically registered, as many homes have been since the 2001 act was passed. It would be impossible for homes to stop functioning because of that act until the commission had inspected and registered them. Recognised homes are automatically registered and will be inspected for re-registering.

I learned from the care commission that if a registered home wishes to discontinue being a home, it must apply to the commission. For example, South Ayrshire Council would have to apply to the care commission to deregister St Meddan's Court, and three months' notice must be given of that. Before granting deregistration, the commission requires to know all sorts of

information, not the least of which is what will happen to the residents, where they will go and whether the situation is satisfactory.

Helen Eadie: That was my point. What has the commission said? Did the council write to the commission? Did the council make an application? What was the commission's response to the council?

Pat Brown: The last time that I spoke to someone in the commission was a few weeks ago, at which time it had no information about South Ayrshire Council applying for deregistration. The commission knew nothing of the circumstances, other than what I had told it.

Phil Gallie: Did you expect South Ayrshire Council officials to discuss the issues with the commission?

Pat Brown: They should have, but to my knowledge, they have not.

Phil Gallie: Have South Ayrshire Council officials at the highest levels assured you that the only reason for the closure is the 2001 act and not cost implications?

Pat Brown: Yes, that is exactly what they have said.

The Convener: Are there any points that you want to make about anything that has not been covered?

Pat Brown: Any decision that is made, particularly a very important decision such as this, has an end result. The end result is that there are frail elderly people who are in a distressed state. That is definitely affecting their health.

If the committee will bear with us, Mrs Thomson would like to speak. Mrs Thomson's mother was a resident in St Meddan's Court and she would like to tell the committee about her mother.

Isobel Thomson: As Pat Brown has said, my mother was a resident at St Meddan's Court. She has lived there for approximately 10 years. She was a bright individual. She was not sitting waiting to die. She was reading, watching the television, and reading her newspapers. She was interested in politics and everything else.

On 22 March, when we were told about what was going to happen, my mother collapsed in front of me. It is not just my mother who is affected. We are trying to save the place for all the old ladies and gentlemen. There is a great need for St Meddan's Court. We can fill it time and again. I agree that our local authority is just trying to opt out of caring for the elderly.

Nan McFarlane (Troon Community Council): I want to talk about the buildings. If you can picture it, St Meddan's Court is the womb and the

sheltered housing is the cord to the womb. The sheltered housing has 24 houses, among whose residents there are two amputees.

We have had no indication that the land and the buildings have been sold. It is very expensive and valuable land in the centre of town. We have been told that the buildings will be transferred to Hanover Housing Association, which is going to build 16 flats, of which six will be two-apartment. We are led to believe that that is going to be a stand-alone Hanover Housing Association complex with facilities for the people who will live in it.

The "cord" houses people who are not quite at the stage of requiring residential care, but who cannot live independently in society. They have their meals in the main part. They also have laundry facilities. The main part also provides 500 meals a week and the laundry facilities for other sheltered housing in Troon.

The council has told us that the sheltered housing at the rear of the building will be refurbished and there will be a package of care tailored to the residents' needs. One of the amputees who lives there is a double amputee. She will have to go to bed at half-past 7 because that is when her "package of care" will come in to put her to bed as her "package of care" cannot come in any later. Once she is in bed, she cannot get back out. She will have to stay there until her "package of care" comes back at half-past 8 in the morning.

At the moment, we are not aware of any 24-hour alarm system, although we assume that an alarm system will be put into the sheltered housing. That system will have to be activated at Ayr. As I understand it, from 10 o'clock at night the alarm system will be activated in Glasgow, which is 34 miles away. The problem is not just St Meddan's Court; there is more to it.

The new Hanover Housing Association plan has a drying area for the housing complex. That will have a 6ft fence that blocks off the view of half the people who live at the back of the complex. There is no path for those people to get straight through to the shops. They—including the amputees—will have to take a circular detour. That matter has not been addressed so far and we are concerned that the package of care, which is given by a private service provider, is not adequate for the people in the sheltered housing. The issue goes further than St Meddan's Court.

The Convener: Could I just clarify something? You keep saying that the council has told you. Has the council made a formal proposal to close the home?

Nan McFarlane: Yes, publicly. I am the secretary of Troon Community Council. We called

a public meeting, which was organised within three days of hearing about the closure and not getting answers from the council. More than 250 people attended the meeting, all of whom were opposed to the closure. The council's director of social work, housing and health and its social justice committee convener, Rita Miller, attended the meeting. All that we got out of them was more rhetoric about the Regulation of Care (Scotland) Act 2001. They said that if St Meddan's Court were not upgraded, the commission would shut it down.

The Convener: Has the council indicated the time scale for the closure?

Pat Brown: The council has not indicated that directly to us, but, from other sources, we understand that it is to be March 2003. The council is moving quickly on the closure. St Meddan's Court has the capacity to take 16 residents, but at present it has only 12 residents. We have been told that it needs the other beds to take people who have been decanted from the sheltered housing complex about which Mrs McFarlane spoke. The council has started to run down the home. I understand that it is taking respite patients again for short periods of time after a period of not taking them at all, but that is supposed to stop again shortly.

The Convener: Has the council undertaken a formal consultation process on the closure?

Pat Brown: No.

The Convener: Thank you for your evidence this morning. You are free to sit and listen to the discussion about how the committee is to handle petition PE551.

As members are aware, the committee is unable to become involved in the executive decision of an elected body, such as South Ayrshire Council's decision to close St Meddan's Court in Troon. The suggested action is for the committee to write to the Scottish Executive and the Convention of Scottish Local Authorities seeking their formal comments on the issues that are raised in the petition. I suggest that we also write to South Ayrshire Council.

We should request the details of their position on local authority provision of residential and respite care homes for elderly people and their comments about the adequacy of current local authority provision, including an indication of whether supply meets demand. We should ask whether there has been a decrease in local authority provision in recent years and request an indication of whether local authorities are experiencing genuine difficulties in finding the resources to fund the upgrading of existing homes in order to meet the standards that are set out in the Regulation of Care (Scotland) Act 2001.

Finally, we should ask for their comments on the petitioners' claims that councils may be interpreting the legislation and policy documents regarding care of the elderly in an inappropriate manner, using the recent legislation as a means to reduce their financial and social obligations.

Dr Ewing: I would like the last point enlarged to include the point that was made about the interpretation of standards as they affect existing and new homes. I suggest that we also ask whether local authorities have a duty to consult on the closure of such residential homes. Does the local authority have a duty to provide information to the residents of such homes? Do local authorities accept that such consultation and information is required under human rights legislation?

The Convener: The clerks have taken down all those points. We can add them to our letters to the Scottish Executive, COSLA and South Ayrshire Council.

Helen Eadie: I was also going to make a point about consultation, as that subject comes up time and again at the committee. I agree that we should ask South Ayrshire Council for its response on the matter of consultation.

Dr Ewing: I made a general point on the closure of a home by any local authority.

The Convener: Perhaps we should write to the Scottish Commission for the Regulation of Care, asking for its comments on the situation. We should ask the commission about local authorities citing national standards as an excuse to close down residential homes.

Dr Ewing: And about the question of registration and remit.

The Convener: Yes.

Phil Gallie: I am pleased that the convener added South Ayrshire Council to the list of those to whom we are to write. Given the comments that have been made, we need to make contact with the council. I also suggest that we ask the council and the commission what contact the two bodies have had on the issue, given the importance that the council seems to have placed on the 2001 act. We should also ask the council whether it took cost considerations into account. The council has denied that cost implications were a factor in the closure of the home. It would be a serious matter if such implications were found to be involved.

The Convener: We can ask those questions of the council and the commission.

Phil Gallie: I have another point. I am concerned about national standards for the regulation of care.

The Convener: We will ask about that.

Phil Gallie: Yes, but there must be an element of priority. My understanding is that modifying the Regulation of Care (Scotland) Act 2001 would require a parliamentary procedure, but that changing the standards might not. The matter is urgent and we should look to change the standards, which have been imposed or laid down by the Executive with the best intentions.

11:45

The Convener: As a member of the committee that dealt with the Regulation of Care (Scotland) Bill, I must point out that there was widespread consultation on the national standards. Local authorities, elderly people's organisations and social work bodies were involved in drawing up the national standards. There is no question that the Executive imposed the national standards. Organisations from across the spectrum of care for the elderly agreed to the standards.

Phil Gallie: Are the national standards built into the act or do they stand apart from it?

The Convener: They are matters for guidance, but they were issued after Executive consultation with the appropriate bodies. From this morning's discussion, it is clear that people do not understand the implications of the national standards. The system is new and there is a lot of misinformation about it. The position must be clarified. The care commission and the Executive will make the situation clear in their responses to us. We can then pass on that information to the people in South Ayrshire.

Dr Ewing: Will the clarification cover the issue of existing homes and new homes?

The Convener: Yes. We will ask about that. I cannot remember the detail, but I am sure that there is a difference between new build and existing homes. The standards must be met within a time scale; they do not have to be met instantly. Do members agree to the suggestions that I have made?

Members indicated agreement.

The Convener: I thank the petitioners for their evidence. We will keep them informed of progress on the petition.

Palestine (PE536)

The Convener: Our next petitioner is Mr Ross Campbell, who is here on behalf of Scottish Friends of Palestine. The petition calls on the Scottish Parliament to offer advice and training to those involved in running the Palestinian legislature and institutions—following or preceding any elections—and to advise the Palestinian Legislative Council on communicating its proceedings to the Palestinian nation.

Before I ask Mr Campbell to address the committee, I declare an interest as a member of the cross-party group in the Scottish Parliament on Palestine. You have three minutes to make a statement, Mr Campbell.

Ross Campbell (Scottish Friends of Palestine): I hope that I do not need to describe to the committee the horrors that are unfolding in Palestine. I have two points. First, I remind members of the many Scottish connections with Palestine. Many churches have connections, notably the Church of Scotland, which has a church and minister in Jerusalem. Did members know that a Scottish woman, who was the daughter of a member of Parliament for Fife, became the mother superior of the Russian Orthodox Church in Jerusalem in the 1960s?

Numerous Scottish medical and educational charities work in Palestine. Our own Dr Runa Mackay served for 25 years in Nazareth. Lord Balfour of the Balfour declaration lived in Whittingehame, which is down the road in East Lothian. Many Scots served in the mandate Administration, notably in the Palestine police. That connection continues—since the Oslo agreement, the Scottish Police College has been involved in training civil police in the Gaza strip. Many Scots served in the army in the area. The Highland Light Infantry was the last unit of the British Army to leave Jerusalem in 1948. Scotland is host to many Palestinians, particularly people in academia and medicine and others who have arrived as refugees.

My second point relates to the future, when the promised viable state is created. It is important to remember what happened after the Oslo agreement. I have heard an Israeli peace activist say that we went to sleep after Oslo and Bill Speirs has said that we took our eye off the ball. When Palestine starts to rebuild itself, we can play a small part by offering to share the Scottish Parliament's expertise and experience in building new democratic institutions. That is a contribution that we can make to help Palestinians towards open government in which ordinary people can have a voice in shaping their future.

The Convener: Thanks very much. I shall start the questioning. Westminster has its own organisation for helping nascent democracies around the world—the Westminster Foundation for Democracy. Ernie Ross, the MP for Dundee West, is the chair of that organisation. Has the foundation been working with people in Palestine to help them?

Ross Campbell: I have no knowledge of its activities. I emphasised the Scottish historical connection because I feel that we have a duty and an opportunity to contribute.

The Convener: We have very different lessons to teach the Palestinians from those that Westminster could teach them.

Ross Campbell: Constraints is the word that comes to mind.

The Convener: Absolutely.

Dr Ewing: There is a similar foundation to the Westminster one in Europe.

The Convener: If the Parliament were to offer support to the Palestinian people in building a new democracy there, when they get the chance, whom would we contact?

Ross Campbell: There is no problem with that. Afif Safieh is the official Palestinian representative in London.

The Convener: The Palestinian representative in the UK would be the person to contact.

Ross Campbell: Yes. He would be more than willing to put you in touch with the relevant people. There is no shortage of Palestinian talent waiting to take up the challenge.

The Convener: No other members have questions for you. Thank you. You are free to stay to listen to the discussion on what we will do with the petition.

I ask members to turn to the suggested action paper. This is a time of great volatility in the middle east. From one perspective, it may be unwise to become involved in any work in Palestine, although the position could be revised after the Palestinian elections in January or on the return of stability to the region. It is also pointed out that significant diplomatic issues would arise as a result of any involvement with the Palestinian Authority at this time—notably, with Westminster. Furthermore, there has been no indication that the Palestinian authorities would welcome such an offer of support from the Scottish Parliament, and it could be argued that neighbouring Arab countries would be better placed to provide appropriate guidance.

That is one perspective. Another perspective would be to say that, in the light of the current pressure on the Palestinian leader to reform his democratic institutions and processes, this would be an opportune time to offer support and advice. However, any such support would require significant staff input during a busy transitional period when staff resources will be fully utilised in dealing with pre and post-election issues and the preparation for our move to the new building at Holyrood.

It is suggested that, on balance, we should agree to take no further action in relation to the petition or, at least, to defer our final decision until a later date. However, if the committee is minded

to pursue further the issues that have been raised, it could agree to seek the views of the Scottish Parliamentary Corporate Body on the petition. It is also suggested that we agree to pass a copy of the petition to the cross-party group in the Scottish Parliament on Palestine for its information only. We could also write to Afif Safieh, asking for the views of the Palestinian Authority.

Rhoda Grant: I suggest that we contact the Westminster Foundation for Democracy and the European body to which Winnie Ewing referred. We need more information about what other bodies are doing to assist before we can come to a final decision on the petition.

The Convener: Yes. The suggestion is that we contact the corporate body, Afif Safieh, the Westminster Foundation for Democracy and the European body before we come to a final decision. We can also ask the cross-party group on Palestine for its views.

Dr Ewing: Why are we writing to the corporate body before we know about the January situation?

The Convener: To get its views, as it would be responsible for organising any assistance. The external liaison unit under George Reid is responsible for relations with other democratic institutions around the world. It is the responsibility of that unit, rather than any committee of the Parliament.

Helen Eadie: Could we write to the Scottish Trades Union Congress? I know that it has been involved in some work in this regard. It might be useful to see what links it has established. The trade union movement might be another avenue through which we could work. The trade unions have been active in Romania and other areas where people are trying to create new democracies. It might be useful to link in with them as well.

Dorothy-Grace Elder: Instead of simply passing the petition to the cross-party group on Palestine—of which some of us are members—for information only, we could seek the group's views and comments.

The Convener: I said that we would do so.

Dorothy-Grace Elder: Did you? I did not pick that up.

The Convener: Well, it was whispered in my left ear.

Dorothy-Grace Elder: The clerk should whisper more loudly.

The Convener: We will be seeking a wide range of opinion. After we receive the responses, we will consider the petition further.

Further Education (Funding) (PE552)

The Convener: The next petition is PE552, from Marion Fellows, which calls on the Parliament to urge the Scottish Executive to provide adequate funding

"to ensure a level of further education that is consistent with the particular needs of the people and economy of West Lothian and to avoid any unnecessary staff redundancies."

Bristow Muldoon and Fiona Hyslop have joined us to speak in support of the petition.

Bristow Muldoon (Livingston) (Lab): Perhaps I should start by giving the committee an idea of the position in which West Lothian College finds itself. When the college recently moved from its previous base at Bathgate to a new campus site in Livingston, the amount of student activity increased substantially. I should point out that the new college is funded through a public-private partnership over a 25-year contractual period.

The college recently incurred a significant deficit of about £800,000. Without the prospect of any further funding, the college board decided that it had to reduce the number of staff. Indeed, it is in the process of reducing the staff by 13 academic and support staff members. Furthermore, a number of individuals are having discussions with the college about voluntary severance or early retirement packages. Those decisions are imminent.

It is a matter of concern that the first new further education college in Scotland for about 20 years has run into financial difficulties so soon after moving to Livingston. Although the number of student places has grown significantly, the college board and staff contend that there needs to be substantial further growth in funded student activity at the college to give it a financially sustainable, long-term base. I believe that the college board recently wrote to the Scottish Executive on that matter. In addition, the staff have submitted this petition to the committee and have contacted a wide range of politicians including Mary Mulligan, Fiona Hyslop and myself, and bodies such as West Lothian Council, the Educational Institute for Scotland, Unison and the West Lothian Trades Union Congress to seek broad-based support for their case.

Further education is very important to the West Lothian economy, especially since the area has one of the fastest growing populations in Scotland. Moreover, with the swift pull-out of NEC and Motorola, the area has experienced traumatic changes in its local economy. That situation only adds to the need for further education and training to ensure that people have opportunities to develop new skills and knowledge so that they can move on, either to new employment or to new higher education opportunities. West Lothian

College has played a major role in addressing some of those economic challenges.

The college has also provided some very good link courses for young people who have left school without as many qualifications as they would have wished. Through those courses, young people have been given the opportunity to take up employment or higher education courses in due course.

The growth of West Lothian College is desirable for all those reasons. After all, it was envisaged in the financial model that supported the PPP. As a result, I ask the committee to encourage the Scottish Executive and the Scottish Further Education Funding Council to address the issues that the college board and the staff have raised. I also ask the committee to refer the petition to the Enterprise and Lifelong Learning Committee.

12:00

I have looked at the funding proposals for the Scottish Further Education Funding Council over the coming three years and it seems that there will in future be an opportunity for SFEFC to address the growth demands of West Lothian College. While next year's SFEFC budget shows a 2 per cent increase, in years 2004-05 and 2005-06, there are substantial increases of £37 million and £38 million respectively in SFEFC's budget. Whether anything can be done in relation to the 13 jobs that are currently threatened, I do not know; I would still like the Scottish Executive and SFEFC to examine any possibilities. The fundamental issue, however, is that we secure the long-term stability of the college and underline that through growth funding over the years to come.

Fiona Hyslop (Lothians) (SNP): I agree with a great deal of what Bristow Muldoon has said. I know that other committees are examining the issues of further education colleges and their funding, but I would like to stress the unique nature of West Lothian College. It was the first college to be set up under a private finance initiative, with the contracts being signed before 1997. Even the biggest fan of PFI, however, might not have set up the college precisely as it was. Regardless of your views on PFI, there is a strong case for us to examine the funding mechanism to determine what we can do to support this successful college. Frequently, we hear requests for the Executive to support failing colleges, but this is a successful one that has to turn students away in an area that, as Bristow Muldoon said, is one of the few where the population is growing.

West Lothian lost 10,000 manufacturing jobs following the closure of the Motorola and NEC facilities and, as a consequence, there is a great demand for re-skilling.

There is immediate concern about the jobs that are under threat and anything that can be done to resolve that situation is important. However, to see the current situation in isolation would be to miss the wider point. Unless we face the fact that the area is growing and place ourselves to deal with that, we will be back with another petition next year and the year after that. We must ensure that the Scottish Executive and SFEFC deliver the anticipated funding package to allow the college to start making a profit now, so that the taxpayers of the future do not have to pick up the tab. Everyone—the taxpayers, the students, the staff—has an interest in ensuring that there is an early resolution.

The situation is unique. I urge the committee to contact SFEFC and the Scottish Executive in the first instance as there are difficulties around accountability issues, which is why the staff brought this petition to the Parliament.

I agree with Bristow Muldoon that, because of the nature of the college, it would be a worthwhile exercise for the Enterprise and Lifelong Learning Committee to consider how we can ensure that further education and the regeneration of communities go hand in hand.

The committee should bear it in mind that the Scottish Executive clawed back a substantial amount of regional selective assistance scheme money from Motorola when its facility closed. The Executive has an opportunity to reinvest that money in the people and the economy of West Lothian.

Dr Ewing: I thought that recent PFI schemes were set up to operate for 75 years. Mr Muldoon mentioned 25 years in relation to the PFI scheme for West Lothian College. Is that one of the differences between old and new PFI schemes?

Bristow Muldoon: The 25-year model in the West Lothian College case does not involve an automatic handover of the building, whereas the schemes that the Executive is now developing do allow for a handover of the building after 25 years.

Fiona Hyslop is right to point out that the former Scottish Office education department worked up the West Lothian College model. The college board believes that the former Scottish Office undertook to underwrite financial deficits in the early years provided that the college met its student activity levels. The college has more than met its student activity levels, but the financial deficit for its early years has not been met.

Helen Eadie: Will Fiona Hyslop expand on what she said about accountability?

Fiona Hyslop: The general issue is that it is difficult for staff and, indeed, for MSPs to get access to the power structures that make the

decisions. There is an issue about SFEFC's involvement. I agree with Bristow Muldoon that one of the problems is that the board of management thought that it had an undertaking from the pre-devolution Scottish Office education department that it would support the college in the early years of the model. Unfortunately, the board is still trying to locate whether it has such a written undertaking.

The accountability problem comes from the fact that the college is set up as a business concern under PFI. Our concern is for the staff and for the students who want to use the college. To be fair to the board, it has been open in conversations and has agreed to meet MSPs and staff, but the accountability issue is kind of separate. The only recourse that staff have is to come to the Public Petitions Committee, which is what they have done.

The Convener: I did not realise that West Lothian College was a PFI. Does the corporate body that runs SFEFC make an annual payment to the company that owns and runs the building?

Bristow Muldoon: The position is that in the first six years of the PFI—we are currently in year 2—the college's availability charge is met by SFEFC. The college board meets the facilities management charge, which is currently a sum in the order of £1.1 million or £1.2 million a year. That facilities management charge will continue to rise during the first six years. After six years, the college management board will then be required to make payments towards the availability charge as well, so the costs will increase significantly after year 6.

The college management board wants to grow the college to the size at which it has sufficient financial stability to be able both to meet the costs of the PFI and to deliver the further education opportunities that are its role to deliver. That is the situation. Basically, a deficit was projected for the early years of the model, but there is a point of argument over whether the former Scottish Office gave an undertaking that it would underwrite any deficit. As Fiona Hyslop identified, the college board believes that such an undertaking was given and has produced some minutes that give some indication of that. Whether that amounts to a smoking gun, I do not know.

Fiona Hyslop: The college is currently operating at 60 per cent capacity, but a 100 per cent charge must still be paid for availability and for facilities management. Because of the PFI model, the college has so many fixed costs that the only costs that it can do anything about are staffing costs. That is why we are presented with the need for staff redundancies or early retirement. The problem is that, unless we can grow the college in the next year or two to the level that is

required for year 6, we will be presented again and again with this situation.

There are two issues: one is the funding package under PFI; the other is how we maintain the levels of student access and the levels of staff. The problem is very serious indeed. As Winnie Ewing pointed out earlier, the college will not own the facility in 25 years' time. At that point, it will have to renegotiate a leaseback or a purchase of the property, despite the fact that it will have paid about £68 million over the 25 years. That is a good example of the problem.

The Convener: So, at the moment, the college board has a legally binding obligation to make a £1 million payment every year for the first six years. It will need to pay more than that after those six years. Does that mean that any deficit will need to come out of staff costs, because those payments must be made, regardless of the circumstances?

Fiona Hyslop: Yes. That is the problem.

The interesting thing is that the board may be able to offset those problems if it can grow the college by increasing the number of students, which it has already proved that it can. Unless the problem is addressed, the burden will be borne by the staff.

The Convener: However, the funding council will probably fund only the agreed number of students, which is not enough to make these payments.

Bristow Muldoon: That is the key point. The current student activity is not sufficient for the college to break even, yet that is before we have reached the additional costs of year 6.

The college management board wants to reach the point at which it is both financially stable and delivering the further education for which demand exists. If the Executive and SFEFC recognise the unique nature of West Lothian College's case, it is possible that funding will be made available from the funding council's allocations over the next few years. We would have to hope that that level of investment would be sustained over the duration of the PFI.

The Convener: Let us turn to the suggested action. I repeat what I say in relation to all petitions: we cannot interfere in the specific issue that prompted the petition—in this case, staff redundancies. However, we should write to the Scottish Executive and the funding council, to seek their views on the issues that the petition raises and on two specific points. First, is the existing funding mechanism for FE colleges adequate? Additional funding is not generated when colleges exceed targets—they must generate additional funding by other means.

Secondly, we should seek details of the extent to which other FE colleges are experiencing financial difficulties and an indication of how the recently announced funding package is likely to address the scale and nature of the problem. I suggest that we also raise a third point and ask for comments on the unique nature of the PFI and its impact on places.

Dorothy-Grace Elder: I am a bit concerned about FE colleges in general, although West Lothian College is in a unique situation. FE colleges are the life-blood of the work force and often produce the practical people who keep the country running while others talk. What is happening to those colleges is serious. For example, traditionally, the gas industry's needs have been shoved down the ladder.

It is suggested that we refer the petition to the Enterprise and Lifelong Learning Committee "for information only", but could we refer it to that committee for comment? We all know that if we had enough reporters on committees, the FE scene could be investigated. Is there any possibility that we could ask the Executive whether it has other examples of the amounts that colleges in Scotland repay for PPP/PFI projects and whether those repayments directly affect lecturer places and the education of the students? Some may have to dish out £1 million a year.

The Convener: We have agreed to ask about the unique nature of the PFI at West Lothian College.

Dorothy-Grace Elder: Can we spell out the £1 million, so that we do not get a fudgy-fudgy answer?

The Convener: It is not possible for us to ask the Enterprise and Lifelong Learning Committee for its comments at this stage, because the Public Petitions Committee is doing the early work on the petition, in order to make it easier for the Enterprise and Lifelong Learning Committee to adopt the petition. Thereafter, it will become the Enterprise and Lifelong Learning Committee's property. We will do the early spade work and then we will pass it on as quickly as possible.

Dr Ewing: I take it, convener, that your suggestion of asking for comments on the unique nature of the PFI would be bullet point 3.

The Convener: Yes.

Dr Ewing: I suggest that we add a further bullet point before that. Can we ask the Executive about the extent to which it believes that a pre-devolution commitment to set adequate student numbers against adequate funding is binding?

The Convener: Are you talking about the Scottish Office's commitment to fund any deficit in the early years?

Dr Ewing: Yes. Can we not ask the Scottish Executive for its view on the binding nature of such a commitment?

The Convener: Yes, we can ask that question.

Dr Ewing: It would be serious if the Executive were to say that it does not regard such a commitment as being in any sense binding. Alternatively, it might help the college if the Executive does not give that answer.

The Convener: We can certainly ask the Executive that question—no problem.

Do members agree with the suggested action?

Members indicated agreement.

Institutional Child Abuse (PE535)

The Convener: The next petition is from Mr Christopher Daly, who calls on the Parliament to urge the Executive to inquire into past institutional child abuse, in particular for those children who were in the care of the state under the supervision of religious orders. He also calls on the Executive to make an unreserved apology for those state bodies and to urge the religious orders to apologise unconditionally.

Mr Daly bases his petition on the actions of the Irish Government, which has already apologised to the victims of institutional child abuse and which has established a commission of inquiry into that abuse. The Irish Government has also set up a fund of £4 million per annum to provide counselling to those who were victims of abuse.

He believes that the Scottish Government should follow the lead of the Irish Government. It is suggested that we write to the Executive to seek its comments on the call for an apology to victims of child abuse in the circumstances that have been described and to ascertain its reaction to the call for an inquiry along the lines that the petitioner has proposed. We might also wish to request the views of the cross-party group on survivors of childhood sexual abuse on the issues that the petition raises.

Phil Gallie is looking quizzical.

Phil Gallie: Many issues lie behind the petition. Rather than asking for apologies, would it not be better if the Social Justice Committee or another of the Parliament's committees were to consider whether an investigation was necessary?

12:15

The Convener: The first stage should be to ask the Executive for a response to the petition. We are not calling for an apology. We are asking the Executive for its comments on the petitioner's call.

Phil Gallie: That is okay.

The Convener: Is the proposed course of action agreed?

Members indicated agreement.

Medical Accidents (Victims) (PE539)

The Convener: Petition PE539, which is from Mr Michael Starrs, concerns victims of medical accidents. Mr Starrs calls for a no-fault scheme to compensate the victims of medical accidents and requests the introduction of a law to clarify the practitioner's duty of care to the patient. The petition is based on Mr Starrs' experiences, which are set out in the paper.

I draw members' attention to the fact that, in July 2001, the Westminster Government established a committee to oversee consultation on its proposals to introduce a new clinical compensation scheme for the national health service in England and Wales. Since 1987, the British Medical Association has recommended the implementation of a no-fault compensation system to replace civil court actions. The Executive has recently established an expert group on compensation for medical harm, which is expected to report its findings in December 2002.

Since the Executive appears to be considering the introduction of a no-fault compensation scheme through the expert group, we might wish to seek the Executive's views on the issues that the petition raises. However, given that the expert group is to report its findings in December, it is suggested that we bypass the procedure of writing to the Executive by referring the petition directly to the expert group for consideration as part of its review. We could also pass a copy of the petition to the Health and Community Care Committee for information. Is that agreed?

Members indicated agreement.

Scottish Criminal Record Office (PE544)

The Convener: The next petition comes from Mr Allan J Bayle. It concerns the review of the Scottish Criminal Record Office. The petition calls for the Scottish Parliament to undertake an inquiry into the openness, transparency and admission of mistakes at the Scottish Criminal Record Office in relation to fingerprint identifications.

Although Mike Russell, who supports the petition, could not be here this morning, he has sent a letter, which he has asked me to read to the committee. It goes as follows:

"Thank you for agreeing to receive this petition and for the time you took to talk to Allan and to Iain McKie.

As I explained to you I am due to be in Quebec on a CPA delegation when your committee meets to consider the petition, and I am therefore writing to give my support to it.

I have known Allan for almost two years and he has campaigned vigorously on behalf, not just of Shirley McKie, but more generally in support of a restoration of the highest standards to the forensic work of SCRO.

The other three petitioners are also known to me. Pat Wertheim and David Grieve have taken part in a number of events at the Parliament in order to encourage a broad understanding of the nature of the mistakes of the SCRO in the McKie and Asbury cases. Arie Zeelenberg was the independent assessor for the HMCIC report into SCRO and has an international reputation for his work in the Netherlands.

All the petitioners are of the highest standing in their field. They have, frankly, no need of the difficulties and complications involvement in this petition will bring, but they are signatories because, as I understand it, they believe that the continuation of the present state of denial by the SCRO (and now by the Justice Minister) with regard to the scientific basis of fingerprinting can and will do nothing but harm to the international reputation of, and application of, fingerprinting techniques.

They believe, as I do, that the only way to resolve the impasse that has now arisen between the SCRO on one hand and virtually the entire world fingerprinting community on the other is to seek the opinion of one of the foremost experts in the world to give his independent opinion. Staff Sargent Ashbaugh is an expert of that eminence and I understand his employers, the Royal Canadian Mounted Police, would permit him to undertake the task if they were approached by the Scottish Parliament Committee.

Accordingly, I would like to add my support to the request of the petitioners and would suggest that the petition be referred to one of the Justice Committees (perhaps Justice 1, given the fact that they have already asked the Justice Minister questions about the matter) with a view to a speedy request to the RCMP for assistance.

The work of Staff Sargent Ashbaugh need not take more than a couple of months and there is therefore enough time for the enquiry to bear fruit before Parliament is dissolved next year.

Finally, can I say that although the petition has arisen out of the McKie and Asbury cases, it is in no way solely concerned with them, indeed these cases are now on their way to resolution in the civil courts. What remains, however, is a climate of suspicion and doubt about the whole science of fingerprinting and how it is applied in Scotland, which seems at present to be different from the way it is applied anywhere else on the planet.

The petitioners, in that sense, want Scotland to rejoin the world. I hope your committee will help them in that task."

Is Dennis Canavan here in support of that petition?

Dennis Canavan (Falkirk West): No. I am here on a later one. I support this petition too, but I do not want to speak on it. I raised it in the chamber at question time two weeks ago.

The Convener: We turn to the suggested action on the petition. On legal advice, the Parliament agreed in May that it would be inappropriate to debate Mike Russell's motion, on the basis that the content of the speeches could be considered to breach the sub judice rule, given that the civil action related to the case was then before the courts. We have received confirmation from the

legal office that civil action is still pending and that no date has been set for a hearing or proof. The court has advised that if a hearing is to take place, it is likely to be sometime in 2003. It is suggested that the petition is so closely linked to the McKie case that it would be almost impossible for the committee and certainly impossible for a subject committee to properly investigate the issues raised without referring to the case. Arguably, consideration of the petition could continue, but within strict parameters relating to what members can and cannot say. However, that would be particularly difficult to enforce and the risk would remain of a breach of the sub judice rule.

It is suggested that at this stage the committee could seek the initial views of the Executive on the general issues raised. On receipt of the Executive response we can consider whether there is merit in further detailed consideration of the petition. We could then also reach a view on whether such action should be deferred until the civil action in the court has been concluded. Are there any views?

Dr Ewing: I do not accept that the sub judice rule applies. I will explain why. I can talk about the delays in the law. I once successfully sued the *Sunday Mail*. It took 18 months in what my Queen's counsel said was a case that I was bound to win from day one; so 18 months is not unusual. We are talking about the case taking until 2003 or 2004.

This is a question of vital evidence in a great number of criminal cases, which all come before our courts. Are we saying that because one litigant raises a civil action—which is totally up to the litigant—that can delay consideration of our criminal law and the law of evidence? That is plainly stupid. I said so during the debate in Parliament. I got a lot of support, sotto voce, for what I said from certain Government ministers. I am sure that I am right. Any vexatious litigant—I am not suggesting that Ms McKie is vexatious, I am on her side—could by raising a civil action stop consideration of the revision of our criminal law. That cannot be right. I do not accept that the matter is sub judice.

The Convener: We will probably, in any case, write to the Executive to ask for its comments on the petition. At the same time as doing that, could we seek further legal advice and opinion on the point that Winnie Ewing has raised and report back within a short time scale?

Dr Ewing: I was a criminal lawyer before I took up this daft profession.

The Convener: Is it accepted that we write to the Executive to seek its comments on the petition and at the same time go back to its legal advisers on Winnie Ewing's point?

Dr Ewing: That was the question of whether a civil action by one litigant can hold up the revision of our criminal law. That could happen over and over again.

Dorothy-Grace Elder: At the lowest level, a reporter on a committee could investigate the matter privately, behind the scenes, without anything being voiced for many months. I agree with Winnie Ewing and she is the expert. The matter is not sub judice at all. The case will drag on into 2003 and possibly until after the election. This is nonsense. We have not spelled out what form of investigation is sought, but if it is an investigation by a committee reporter that is, as we all know, done quietly and the findings are eventually presented to a committee.

The Convener: This action does not rule out passing the petition on to one of the justice committees. We would have to write to the Executive anyway to get its comments. This will help the justice committees, because they have a busy agenda and we can do the early work much more quickly than they could.

Dr Ewing: It was the Presiding Officer who indicated in a parliamentary answer that we should not comment because the matter was sub judice. He was asked who had advised him, but he was coy about that.

Phil Gallie: I sympathise with Winnie Ewing. The problem is that the only evidence that we appear to have concerning the reliability of so-called fingerprint experts relates specifically to the Shirley McKie case. Can the member point to any other cases in which the issue has arisen? Are we basing all our criticisms on the Shirley McKie case?

Dr Ewing: We are basing our comments on the core law regarding fingerprint evidence. The regime in Scotland is one of the strictest in the world—18 points of resemblance are required. All over the world fingerprint evidence is taken based on 16 or 12 points of resemblance. When Dr Simpson was asked officially to comment on this issue, he agreed that

“it is not an exact science.”—[*Official Report*, 26 September 2002; c 14183.]

If fingerprint identification is a science at all, it is not an exact science. We tend to think of it as an exact science, because that is the way in which fingerprint evidence always used to be regarded. Now its reliability has been placed in doubt in many parts of the world—including parts of America, where each state has its own rules. In some states fingerprint evidence is not regarded as conclusive, although it is very damaging.

The Convener: The action that has been suggested does not rule out our taking a final

decision on the issue. We are seeking the Executive's comments and taking further legal advice on the point that Winnie Ewing made about the sub judice rule. Do we agree to take the action that has been suggested and to return to the petition later?

Members indicated agreement.

Cairngorms National Park (PE555)

The Convener: The final new petition is a petition from Mr William Hamilton on behalf of Laggan Farmers Action Group. The petition calls on the Parliament to take the necessary steps to ensure that the parish of Laggan is included in the Cairngorms national park by extending the proposed park boundary south to the Drumochter pass. Fergus Ewing would like to speak in support of the petition.

Fergus Ewing: I very much support the petition from Mr Hamilton and the efforts of the Slimon family to argue that the parish of Laggan should be included in the proposed Cairngorms national park. I know that Rhoda Grant also supports the petition.

The Rural Development Committee, which is currently considering the draft designation order, will meet in Kingussie on Friday. At that meeting, Mr Hamilton and others will have a chance to give evidence and to put their case to the Rural Development Committee. In that way, the petitioner will be able both to express his views and have them taken account of in the democratic process.

The Convener: Today we must refer the petition formally to the Rural Development Committee, so that it can deal with the petition at its meeting in Kingussie on Friday. Is that agreed?

Members indicated agreement.

Current Petitions

Scottish Transport Group Pension Funds (PE500)

The Convener: It is suggested that we deal first with petition PE500. A number of MSPs who would like to speak to the petition are present. The petition relates to Scottish Transport Group pension funds.

Members will recall that in September we considered a further response from the Deputy Minister for Enterprise, Transport and Lifelong Learning and agreed to write to him again requesting that the committee be notified when the outstanding reply from the Inland Revenue had been received. I have received a response from the deputy minister that covers two main issues, which are set out in the cover note.

The first point relates to the £50 million that has been transferred to the UK Exchequer. The minister has replied to the effect that there is no legal entitlement for that money to go anywhere other than the Treasury. The Scottish Executive's budget has been adjusted to take account of the fact that £50 million has been given to the Treasury.

Secondly, the Inland Revenue has said that there is no case for the pensioners to be given special treatment and that the lump sum payments will be taxed. The sponsors of the petition, together with a delegation of Scottish MPs and Transport and General Workers Union members, will meet representatives of the Inland Revenue to discuss the tax rules.

We now know that £50 million has been remitted to the Treasury and that double taxation will continue because the Inland Revenue does not think that there is a case for not taxing the payments.

Dennis Canavan: I want to comment on Lewis Macdonald's reply, in which he states:

"agreement was reached in December 2000 which would give Scottish pensioners an outcome which was broadly comparable with their English colleagues."

That is not true.

To try to justify his statement, Lewis Macdonald goes on to say that the initial negotiations were based on the anticipated average payments that the National Bus Company pensioners would receive. That average payment was £7,000 per pensioner. If you multiply that by 14,000—the approximate number of Scottish pensioners and deferred pensioners—you get a sum of £98 million, which has been rounded up to £100 million to try to make it look like a generous offer.

12:30

The fact is that the surplus per capita in the Scottish scheme was considerably more than the surplus per capita in the English scheme. That is partly because the Scottish pensioners contributed for longer. Therefore, it would be fairer to base the negotiations on the percentage share of the surplus that the English pensioners received. The English pensioners received about 60 per cent of their surplus and the Treasury received about 40 per cent. In Scotland, the reverse has happened. The Scottish pensioners are being offered only about 40 per cent of their surplus while the Treasury will pocket 60 per cent. That takes into account corporation tax, income tax and the £50 million from the surplus itself.

Lewis Macdonald has not addressed that point in his letter. I think that we should write back to him on that specific point. He says that it is entirely

"a matter for the UK Exchequer",

but the amount on offer is the result of negotiations between the Scottish Executive and the UK Exchequer, and under the existing proposals the pensioners are being sold short. Lewis Macdonald should be asked to renegotiate.

I turn to the taxation matter that Lewis Macdonald also mentioned. The Inland Revenue is saying that the Scottish pensioners will have to pay tax on their ex gratia payments because they are not payments directly from a pension fund. However, they are payments arising from a pension fund surplus. The Inland Revenue is saying that lump sum payments from a pension fund are tax-free, but lump sum payments from a pension fund surplus are not tax-free. That seems to be inconsistent.

Lewis Macdonald has been in contact with Ruth Kelly, the Financial Secretary to the Treasury. She has also written to me. She has agreed to meet a delegation of Scottish MPs and members of the Transport and General Workers Union. It is fair enough that the UK Exchequer and the Inland Revenue are accountable to the Westminster Parliament rather than the Scottish Parliament, but members of the Scottish Parliament and of this committee have been doing all the running on this issue. With a few notable exceptions, Westminster MPs have shown little interest in or knowledge of the matter.

I think that we should write to Gordon Brown as Chancellor of the Exchequer and as an MP who represents a Scottish constituency and ask him to meet a delegation of MSPs. More important, the delegation should include members of the Scottish Transport Group pensioners action committee and its adviser, Derek Scott.

To sum up, I suggest two courses of action.

First, we should write back to Lewis Macdonald telling him that we are not satisfied with his response and urging him to renegotiate so that the Scottish pensioners get at least 60 per cent of the surplus and so achieve parity with their English counterparts. Secondly, I suggest that we write to Gordon Brown and ask him to meet a delegation.

Fergus Ewing: The pensioners have been the victims of a real injustice. It is one of the most serious that has occurred since the Parliament was created. I recently met a widow who, although she behaved with extreme dignity, was extremely upset and angry at the way in which the memory of her late husband has been treated.

I have some specific points. As I recall, just before the summer recess, the committee—to its credit—expressed broad consensual support for a number of measures. Those measures were set out in a letter to the minister.

One of those measures was that widows and widowers should receive the full payment that their loved one would have received had he or she survived, not the 50 per cent payment that many of them are receiving. Perhaps the committee was persuaded by the logic that whoever was responsible for the 10-year delay, it was not the widows, the widowers and the members of the pension fund. Whether the Government or the trustees were responsible is irrelevant. The delay has meant that, in most cases, the widows and widowers will receive only one half of the payment. I feel that that is insupportable. The minister should come before the committee to explain why that decision was made.

Although I have yet to have this confirmed in writing, my understanding is that those widows or widowers whose spouses died on or after 18 December 2000 will receive the full payment. That is yet to be confirmed, so I want to be careful about it, but if that is the case, it is a partial concession and it is a tribute to the work of the committee that it has been obtained. I believe that it has been obtained, but I have not had that confirmed in writing and I think that it should be made clear.

The Convener: It was confirmed in a letter to the committee. We discussed it at the meeting on 10 September.

Fergus Ewing: I then spoke to another widow on the telephone. She is not my constituent but I spoke to her after speaking to the local constituency MSP, Alasdair Morgan. She broke down. She thought that for some widows to receive the full payment and some to receive a half payment was a mockery. It just could not be justified. The minister has some explaining to do.

From a practical point of view, the money that is available for the payments might well allow for full

payment without any increase in the overall total. There were 14,000 beneficiaries initially. Some pensioners will have died without leaving eligible beneficiaries such as widows, widowers or offspring. In such cases, the share that the Executive has earmarked for those people will fall into the money that is available for eventual redistribution to all the beneficiaries. We have also had specific confirmation that the residue of the surplus, if you like, will not go to Gordon Brown; it will go to the remaining beneficiaries. Members might not be surprised to learn that I have asked a few parliamentary questions to ascertain how many beneficiaries have been identified at this stage. Although it is early days, perhaps the estimated remaining residue of the surplus that could go to the widows could be calculated. That is a priority.

I also want to talk about tax. I will not repeat what Dennis Canavan said, but it is outrageous that, because of a technicality, Scottish pensioners have to pay tax and English pensioners do not. We should examine the Act of Union 1707 to see whether there has been a breach of that piece of legislation. I am not a fan of it, but it is there and it should be enforceable. It is outrageous that Scottish people should be taxed and English people should not purely because of an absurd technicality.

I endorse Dennis Canavan's suggestion that Gordon Brown should meet a delegation of MSPs. I also invite the committee to consider that, if we cannot get an answer to the questions, Mr Brown should be invited to give evidence to the committee and explain why Scots have to pay income tax when it is not payable by English people. Surely that is a breach of the Act of Union 1707. The reasons given in justification of the decision are patently without any merit and are absurd.

I hope that I have made my two points in a reasonably cogent way.

The Convener: On your point about the Act of Union 1707, the pensioners are not being treated differently because some of them are Scottish and some of them are English. They are being treated differently because one group was in a tax-approved pension scheme and the other group was in an unapproved retirement benefit scheme. The position has nothing to do with their national origin. The Act of Union 1707 does not come into consideration of the issue. However, we can certainly pursue the difference between the two schemes.

Dr Winnie Ewing: It is really a war of words. Dennis Canavan put the issue very clearly, in slight contradiction to what you have just said. Why is there one law for tax on pension funds and a different law for tax on surplus pension funds?

They are only words—and words that are being used to cause an injustice. We should be very careful how we interpret them. That is my first point.

I remember well when Lewis Macdonald came before our committee and was quite severely cross-examined. I remember him assuring us that he would not just write a letter but would seek to persuade personally. That was his assurance—certainly to me—but he has not done that. All that he has done is written a letter. He says in his letter of 30 September, “I wrote to”, and he was quite happy with a letter back. That is not what he agreed to do. We insisted that he should seek to persuade of the justice of this case, which we are all concerned about. He has not done that, and I think that he should be asked why he did not do that, as he promised the committee he would.

Apart from all the other comments, I agree that we should bring Gordon Brown here. I would fairly enjoy that, if I am still here.

Dorothy-Grace Elder: The situation concerning the Treasury is such that Gordon Brown, or someone, should be accountable. There is a big difference between being an iron chancellor and simply being a callous person who seems to have lost the moral compass. On Thursday, a similar situation will be highlighted, as thalidomide survivors are coming to the Parliament. Other chancellors in the rest of Europe do not stoop to taking tax from thalidomide survivors; Gordon Brown does. The situation that Dennis Canavan has described has been running for almost as long as the thalidomide situation in terms of the period over which people have paid into funds. Mr Brown should really be the number 1 target.

Rhoda Grant: Our big problem is that we are dealing with two quite different things, as the English pension plan allowed for the surplus to be redistributed and the Scottish one did not. We must try to get a derogation, because, legally, there is probably not an awful lot that can be done, because of the way in which the pension plan was set up. We need a one-off decision that would exempt the Scottish pensioners from having to pay tax. I do not know whether that is possible. Can we find out whether it is possible to get a derogation?

The Convener: The Financial Secretary to the Treasury has already said that there is no case for special treatment in this instance, so I assume that that rules out a derogation.

Dr Winnie Ewing: She may have said that there will be no special treatment, but what we are getting here is discriminatory treatment. What about that for a starting point?

The Convener: We are in a difficult position. The fact that the money has already gone back to

the Treasury and that the Inland Revenue has nothing to do with the Scottish Executive makes it difficult to approach Lewis Macdonald on those issues. Dennis Canavan's suggestion that we write to Gordon Brown asking him to meet a delegation of MSPs and pensioner representatives to discuss the issues would be a good way forward. At the same time, we could write to Lewis Macdonald reminding him of the points that Winnie Ewing raised and asking him to address the question of the 60 per cent surplus in England compared with the 40 per cent in Scotland. We could also ask him about the point that Fergus Ewing raised—whether it would be possible within existing totals to make 100 per cent payments to the widows because of the slack inside the system. That would keep the matter going anyway, and would keep the fight up.

It may just be that Gordon Brown will agree to meet a delegation of MSPs. If we were to send out a demand that he come here, it would become too political and we would not be helping the pensioners. We are trying to help the pensioners. If we approach Gordon Brown in the right manner, he may well agree to talk to people, rather than being hauled before the committee. In any case, we could not haul him before the committee; we do not have any power to do that and he could simply say no.

Dr Winnie Ewing: Maybe there is decency tucked away somewhere. He might offer to come.

The Convener: He is certainly welcome to come. However, in the first instance, I think that we should write to him, as Dennis Canavan suggested, asking him whether he will meet a delegation of MSPs. It will be a matter for the pensioners themselves to decide which MSPs to take with them. I do not think that members of the committee should necessarily go. Do members agree to take those two courses of action—writing back to Lewis Macdonald about the points that were raised and writing to Gordon Brown asking him to meet a delegation of pensioners?

Fergus Ewing: I have just one further point, which perhaps I should have raised earlier. We have been told only that the average payment to an NBC pensioner was £7,000. Could we ask for confirmation that that was the average and for full details of the computation, the number of pensioners and how the average was calculated?

The Convener: We would need to ask Gordon Brown for that, because the Scottish Executive does not have that information. Is that agreed?

Members indicated agreement.

The Convener: I thank members for attending.

Saltire (PE512)

12:45

The Convener: Gil Paterson is present to discuss petition PE512, so we will bring that forward. I am sorry that we are jumping about a bit on the agenda, but a large number of MSPs are in attendance this morning.

Petition PE512 is from Mr George Reid and is on the saltire flag. It calls on the Parliament to endorse the 1989 guidance that the Ministry of Defence published, which defines the blue of the saltire as azure, and urges the Executive to publish guidance on the matter.

The committee will remember that, initially, we received the wrong information that the matter was reserved. The Lord Lyon King of Arms said that the matter was devolved to the Scottish Parliament and we wrote back to the Executive for its views. The Deputy First Minister and Minister for Justice provided a detailed response and we also have a response from the Heraldry Society of Scotland, which backs up the Deputy First Minister. They both say that the issuing of guidance or the introduction of regulations would be unnecessary and would create more difficulties than it might solve. They believe that no evidence suggests that abuse of the design or colour of the saltire is widespread, so the Executive will not issue the proposed guidance.

Mr Gil Paterson (Central Scotland) (SNP): The matter seems a wee bit trivial. I have sat through all the committee's deliberations this morning and the committee has considered some heavy matters, not least the petition on pensions. I wanted to be involved in that discussion, but I knew that I could not be.

I have never claimed to be an expert on anything, but I can claim to be an expert on colour. That is my profession. I have been involved in the business of colour for 30 years. The business that I own—but no longer operate—can come up with a colour for anyone who phones from anywhere in the world. We have about 2 million formulations on record. If someone picks up the phone and calls one of my businesses, we will deliver a specific colour over the phone. That happens all day every day in my business.

The Convener: No advertising is allowed here.

Mr Paterson: My business and every other business in colour operate with numbers. The system goes back to its invention by the Chinese. People do not talk greys, blues or whites, but numbers. In the UK, we talk about British standard numbers. There are German RAL colours, which are standard colours. All over the world, people work to standards. Standards exist for clothing—

for the wool and the cloth that people wear—for the paint on the walls, for the cars that we drive and for print materials. We need some form of identification to work from.

I am holding up the Scottish Parliament logo, which has a colour. I could call that colour one name and I am sure that everyone else would call it something different, but the person who ordered the headed paper for us would have been asked, "How much paper do you want?" and "What colour do you want the logo in?" That person would have quoted a reference number for the colour of the heading.

The situation is extraordinarily strange. We in the Parliament are the only people with the authority to put a number on the colour of the Scottish flag. The petitioner is not asking for a decision for down the line, once a flag has weathered, which has been talked about. A pigment can be produced that can be put on a flag or anything and will never weather—it stays the same colour. If someone damaged their 50-year-old car today and wanted it repaired, they would want it and expect it to be repaired in the same colour. That is just how it is. The determining factor is the colour that is produced at the start—not the colour after five or 10 years of weathering—which should be of the same value.

The petitioner is looking for the Parliament to take the simple responsibility for designating a colour. Every other country that I know of, including England, designates the colour of its flag.

Let us suppose that Jack McConnell decides to go to America sometime next year or the year after, and someone says to him, "Glad to see you're coming, First Minister. We're going to manufacture 1,000 flags to put up on the flagpoles. What colour do you want them?" He might say, "Just make them blue." "What shade of blue?" he might then be asked. "Och, anything you like," he might reply. That would be so ridiculous. We want the answer to be, "Here's the reference number for the colour of those flags." For the Executive to put out such a stupid message to professionals all over the world, that we do not know the colour of our flag and cannot designate a reference, is highly insulting.

I hate to have to go on about this—flags do not clothe us, feed us or make us rich. In fact, they do not do anything for us other than identify us. The matter may seem trivial compared with other, weighty subjects, but it is certainly petty and trivial for the Executive to supply a response such as the one that it has issued. The Executive wants its backside kicked, and its response should be sent back. It should give us a reference. It is its responsibility.

The Convener: Right—that was some passion delivered there. I do not know anything about the designation of numbers to colours. You are calling for the flag colour to be designated by number. Does that mean that all flags that are produced or manufactured would have to be specified according to that number? There would then be problems of monitoring, to ensure that people abide by the specification. Any number of people in Scotland sell flags.

Mr Paterson: It is a straightforward technicality. When someone makes an order, they are asked what colour they want and they give a number.

The Convener: What I am trying to get at is the fact that it would not be mandatory. The Parliament can designate a certain number of blue—

Mr Paterson: Exactly. That is the point.

The Convener: But people would be free to use other numbers of blue if they wished.

Mr Paterson: You know the story of “Jack and the Beanstalk”. We do not want “Jack and the Flagpole”, with Jack climbing up to check the colour of all the flags.

The Convener: That could not be done.

Mr Paterson: Of course not. This is not about regulation, or whether all flags are of the same colour: it is about who is responsible for designating the colour so that when flag manufacturers all over the world—a lot of flags are made in China now—make the flags, they all start off the same colour. The responsibility is not to have all the flags the same colour today, but to ensure that they are all the same colour when they are manufactured.

Dorothy-Grace Elder: It happens that the saltire has been chosen, but why not solve the whole problem by switching to the lion rampant, which is much cheerier?

Mr Paterson: We would still need a colour.

Dr Ewing: We would still need a yellow—with the Queen’s permission.

The Convener: I call Phil Gallie.

Dorothy-Grace Elder: What has the Queen got to do with it?

Dr Ewing: And we would need to consult the Lord Lyon.

Phil Gallie: I must admit that, until Gil Paterson spoke, I would have been happy to go along with Jim Wallace’s comments. I then started to think about colour references. I think that Gil’s approach is right. We are not talking about a mandatory colour; we are not trying to bring in regulation. All we are saying is that there should be a base

colour, or standard colour—a particular number of blue—which everybody should aim for. There is an element of sense in what Gil Paterson said, which I appreciate. He has changed my opinion. That is a good thing.

Dorothy-Grace Elder: And Phil Gallie is the expert on blue.

The Convener: Let me suggest that, in the light of Gil Paterson’s contribution, we write back to the Executive, asking it whether it would be prepared simply to designate the colour for the national flag, using numbers. That requires no monitoring or mandatory guidance. It would be a matter of designating an official colour for the Scottish flag. That is all we are asking the Executive to do.

Mr Paterson: I would be happy to give the Executive 30 years of my experience. It is there to be picked up.

The Convener: I hope that you are not looking for contracts.

Mr Paterson: No.

The Convener: Is that course of action agreed?

Members indicated agreement.

The Convener: Thank you. Let us get back to the agenda. [*Interruption.*] I am sorry, but we will have to jump around again. Another member has joined us—we are very popular this morning. We will deal with petition PE517 next.

Water Treatment Plants (PE517)

The Convener: This petition deals with water treatment plants, in particular the one at Seafield, Edinburgh.

Members may remember that we resolved to write to a series of groups about the problem of odour. I invite Susan Deacon, the constituency MSP to join us for our consideration of petition PE517.

We have received fairly detailed responses from the Scottish Executive, Scottish Water, the City of Edinburgh Council and the Scottish Environment Protection Agency. I am not sure whether Susan Deacon has had an opportunity to see all the detailed responses.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): No, I have not.

The Convener: Do you want to say anything at this stage?

Susan Deacon: I will keep my comments brief, as I realise the committee is pressed for time. I am delighted, as are the local residents, that the Public Petitions Committee has carried out even the preliminary work that it has undertaken. The problem is one that the local community has

experienced for decades. The substantial investment in the Seafeld waste water treatment works over the past few years changed the community's expectations. Indeed, Scottish Water and others created the real expectation that the odour problem would be resolved once and for all, but that was not the case and it is not what has happened.

As recently as last weekend, I was made aware that powerful odours were emanating from the treatment plant. When petition PE517 was lodged, I expressed my view in a letter to the committee. In it I said that there needs to be a resolution of the odour problem that emanates from the Seafeld waste water treatment works as it affects my constituents in the Leith Links area of Edinburgh. I am determined to ensure that the problem is resolved, as are the local residents who have attended the meeting today.

A bigger issue arises from the case. The regulatory regime that governs smells from facilities is at best confusing and overly complex; at worst, it is inadequate. The problem that my constituents experience is not isolated. It highlights a number of wider problems and limitations in the operation of such plants now and in the future.

I believe firmly that this is the sort of issue that the Scottish Parliament should examine. In so doing, the Parliament will help to maintain the necessary pressure to ensure a resolution—once and for all—of the Seafeld situation. If the Public Petitions Committee refers petition PE517 to one of the subject committees, the Parliament could pursue the issue further. I hope that that would allow us to see improvements across Scotland in future.

The facilities are necessary—I will say no more than that. We all recognise that they are of vital importance, but they should not operate at the expense of a local community having to live week in week out with vile smells. That is what is happening at the moment. The situation is unacceptable, given that we have the necessary investment and the technology is available.

Dr Ewing: I am shocked to read in the clerks' paper that SEPA does not want to have anything to do with the odours.

The Convener: It has no powers.

Dr Ewing: No powers? Who on earth established SEPA in such a ridiculous way that it has responsibility for effluent but none for odours? Legislation might be required to change the situation, which is horrendous.

I understand that odour is settled by planning or nuisance legislation. Nuisance legislation often requires litigation, but without legal aid most

people are not prepared to become litigants. I also understand that, as the local authority is both the planning authority and the owner, no planning conditions could be attached to the plant. Although conditions could not be attached, they could have been agreed voluntarily.

Susan Deacon rightly said that there is a lot of confusion about how the public is to be protected in these sorts of situations. Indeed, because of the stupid way in which SEPA was established, the public is not protected. If action is to be left to nuisance legislation, we might as well say goodbye to any remedy. It is a poor situation if the public cannot be protected against bad smells.

Helen Eadie: I am concerned about situations such as this where the local authority is both the planning authority and the owner and planning conditions are not attached to the development. We need to be mindful of such situations. I have been involved in a planning committee that has attached 50 or 60 conditions to a planning application. Agreement to an application is given on the basis that the conditions are adhered to. There is a bigger problem when conditions are not attached to applications. We have to consider that.

I am pleased that one of the recommendations is that we refer the petition to the Transport and the Environment Committee. I hope that it will take the points on board, because they cover an important aspect of planning. I have been involved in smells, not only from sewage treatment works but from paper mills and fish factories. Some people in Scotland like the smell from breweries, but others do not. There is a big issue around odours, not just in this context, and we should ask the Transport and the Environment Committee to consider it.

13:00

Phil Gallie: Perhaps the more serious point is that SEPA cannot get involved in air pollution, which is a health and safety matter. Therefore there is no contradiction in the fact that it cannot deal with odours.

The Convener: The petition has been useful in the sense that it has highlighted serious flaws in the system as it operates in Scotland. I suggest that we agree to refer the petition to the Transport and the Environment Committee with the recommendation that it considers further the effectiveness of current planning and environmental legislation and enforcement procedures covering odours from sewage treatment plants. We could also ask the committee to consider whether there is a case for an enhanced role for SEPA in regulating such odours. Is that agreed?

Members indicated agreement.

Allergy Clinics (PE276)

The Convener: This is the third time we have tried to get back to the agenda. We will try to get through it as quickly as we can. The petition is from the Lothian allergy support group, which calls on the Parliament to establish specialist clinics for the diagnosis and treatment of allergies in national health service hospitals in Scotland.

Members will remember that there was confusion about the initial responses from the Scottish Medical and Scientific Advisory Committee and the Executive. We wrote to the Executive asking for a clearer statement, which has now come back in detailed form.

The Executive's response appears to be positive. Although it makes clear that it cannot get involved in treatment issues or the provision of local services by NHS boards, it has indicated a readiness to explore the potential benefits of a managed clinical network option for allergy services. The Executive is willing to discuss the scope and geographic extent of such networks and the alternative use of funding that is earmarked for an additional consultant post in Lothian.

The petitioners' views about the current deficiencies in service provision would also be taken into account and if proposals were to be developed, further discussions would include patients' representatives and health professionals who are involved in the provision of allergy services. It is suggested that the Executive's response be copied to the petitioners, to establish whether they are content with what has been proposed, and to the Health and Community Care Committee.

Helen Eadie: I am especially pleased about the Executive's response, because the Public Petitions Committee has been positive from the start about reacting to such issues. I was particularly pleased to note that the Executive has offered to meet the petitioners to explore further how various information can be made more widely available. I feel that we do not know enough about allergies. We need to do a lot more work, because they can affect people significantly. I am pleased with the Executive's response and I would be interested to hear what the petitioners say about it.

Dr Ewing: Allergies are on the increase among children.

Peatland Conservation (PE301)

The Convener: Petition PE301 is from Mr Steve Sankey, on behalf of the Scottish Wildlife Trust, on proposals for additional Scottish peatland habitats that would be candidates for designation as special areas of conservation.

Members will remember that we had a response from the Executive and decided to consult the Scottish Wildlife Trust to get its comments. It has confirmed that it is content with the Executive's designation of four additional raised peatland sites and regards the issues that it raised in the petition as having been addressed. The Scottish Wildlife Trust thanks the committee for its assistance in realising its objective. In the light of that positive outcome, it is suggested that we agree that action on the petition be concluded. Is that agreed?

Members indicated agreement.

Steiner Waldorf Education (PE457)

The Convener: We agreed to write to the Scottish Executive on the application by the supporters of Steiner Waldorf education for it to be part of the publicly funded sector. We sought views from the Scottish Executive and the Convention of Scottish Local Authorities, which are set out in the papers that members have.

There are two responses from COSLA. The first came from Helen Law, who is COSLA's education spokesperson. She indicated that she had not taken the actions that some of the petitioners suggested she had. She said that she had made no comment about Steiner Waldorf education.

We also received an official response from COSLA's education executive group. Members can see that there is no legal barrier that prevents education authorities buying places for pupils in Steiner Waldorf schools or providing support for the schools in other ways. The Executive response makes it clear that ministers would want to consider any change in the status or current funding arrangements of Steiner Waldorf education in the wider context of the national debate on education. If Steiner schools were to become part of the publicly funded education sector, they would be required to commit to the statutory education framework.

COSLA does not advocate public funding for Steiner Waldorf provision on the basis that doing so would create a precedent for other parents who wished to pursue independent schooling for their children.

We have two options. We can agree with the Executive view, which is that the national debate on education provides a forum for discussion on the potential of Steiner Waldorf schools to contribute further to the publicly funded sector, and take no further action. Alternatively, we can pass the petition on to the Education, Culture and Sport Committee.

Dr Ewing: I understand that the standard required for teachers in Steiner schools is not uniformly the same as that required under our

education acts. They cannot expect us to put an umbrella over Steiner schools in toto when they do not obey the normal standards.

The Convener: That point was made by the Executive. If Steiner schools were to come into the publicly funded sector, they would need to work within the framework that is set down by the Executive.

Phil Gallie: Given the importance of the subject to many people, we should let the Education, Culture and Sport Committee consider the issue.

The Convener: We could certainly pass the petition to that committee. Whether that committee will be able to respond between now and next March is another question.

Phil Gallie: The Education, Culture and Sport Committee would need to determine that issue for itself. I think that it is worth passing the petition on.

Helen Eadie: We could have a mix between the two options before us. In recognition of Phil Gallie's point, which was that many people believe in Steiner Waldorf education, we could encourage the Steiner Waldorf people to contribute to the national debate on education and steer them in the direction of that forum. We could also refer the petition to the Education, Culture and Sport Committee. I am concerned that the petition might not feature highly in that committee's agenda. Nevertheless, we could do both of those things without creating any problems.

The Convener: Okay. We will formally refer the petition to the Education, Culture and Sport Committee. We will let the petitioners know that we have done that and direct them towards the national debate on education.

Phil Gallie: Convener, I want to check what you said a moment ago about the March deadline. When the Scottish Parliament was established, I understood that, unlike Westminster, business could be carried over across parliamentary sessions. If the Education, Culture and Sport Committee has not dealt with the petition by March, could not the new education committee after the election address it?

The Convener: I think that the procedure is that when the committees are wound up, any outstanding petitions will be referred back to us. The proposal is that such petitions would be held by the Public Petitions Committee until after the election, when they would be redistributed to the subject committees.

Phil Gallie: Okay.

Stone of Scone (PE505)

The Convener: The next petition is PE505 from Robbie the Pict on behalf of the Scottish People's

Mission. The petition is about the restoration of the stone of Scone to the community of Scone.

Members will recall that there was some misunderstanding, in that the petitioner said that the main point of his petition was to investigate the ownership of the stone. He also wanted to find out whether the courts should decide whether the stone was stolen from Scotland in the 14th century—or whatever century it was.

When we last considered the petition, we decided to approach the Executive only about moving the stone to Scone. Both the Executive and VisitScotland have responded by saying that they would not favour such a move. They think that the stone should be kept in Edinburgh. We must now decide whether there is a sufficiently strong argument in favour of referring the petition to a subject committee or whether we should agree to take no further action and inform the petitioner.

Helen Eadie: We should take no further action.

Dr Ewing: Perth and Kinross Council did not press for the stone to be returned. It was worried about security.

The Convener: Is it agreed that we take no further action?

Members indicated agreement.

Postal Delivery Service (PE513)

The Convener: We have agreed to pair Phil Gallie's petition, PE513, with petition PE542, which we heard earlier this morning. It is suggested that we deal with both petitions when we get the full Executive response. Is that agreed?

Members indicated agreement.

Museum Hall (Bridge of Allan) (PE518)

The Convener: The final current petition is PE518. The petitioners, who are concerned about Historic Scotland's failure to protect the museum hall in Bridge of Allan from unlawful neglect, are calling for a plan to restore the museum hall to be put in place.

We have received a detailed response from Historic Scotland, which makes it clear that Historic Scotland is of the view that it has acted correctly. The response states that, although the outcome is not the ideal solution, it is

"a permissible and reasonable compromise in the particular circumstances pertaining at the site".

Following a Court of Session ruling giving permission for the sale of the hall, development proposals are being prepared that would retain the hall's front elevation. Therefore, there seems no possibility that Historic Scotland will initiate an action plan to save the hall in its entirety, which is what the petition calls for.

Although the petitioners' concerns are understandable, Historic Scotland's response and the actions taken by the council appear to be reasonable. It is therefore suggested that we agree to take no further action on the petition and inform the petitioners. Is that agreed?

Members *indicated agreement.*

Carbeth Hutters (Petition PE14)

The Convener: Dorothy-Grace Elder has received a reply from the Carbeth hutters, who previously lodged a petition that was debated in Parliament. In the wake of that debate, a number of recommendations were made for changes in legislation. Although the Executive accepted the recommendations, it appears that absolutely no action has been taken. The question is whether we should pass the issue back to the committee that dealt with the petition or whether we ourselves should chase up the Executive.

Dr Ewing: I also received a letter, which gave the names of those whose possessions were taken away from the huts without their permission.

The Convener: I suggest that our clerks liaise with the clerks to the justice committees to follow up the issue. We cannot just let the matter go.

Phil Gallie: The Justice and Home Affairs Committee produced a report on the Carbeth hutters.

Inadmissible Petitions

Wind Farm Developments (IP30 and IP31)

The Convener: Two petitions have been ruled inadmissible because they deal with individual planning applications. The clerks have been in discussions with the petitioners, both of whom will submit new petitions. Does the committee agree that the two petitions are inadmissible?

Members *indicated agreement.*

Convener's Report

The Convener: For the final item of business, we have a letter from David Steel, the Presiding Officer. He indicates that the Scottish Parliamentary Corporate Body has considered proposals for the Parliament to accept petitions in languages other than English. For example, petitions could be submitted in Arabic, Bengali, Cantonese, Punjabi or Urdu as well as in English and Gaelic. Is the committee happy for me to write back to say that we are happy for the standing orders to be changed so that we can receive petitions in all languages?

Phil Gallie: Accepting petitions in all languages is a different thing from accepting petitions in the languages that you mentioned. I cannot see how we can be specific. We have got to say that the petition can be in any language.

The Convener: However, it is likely to be in one of those languages. An English translation would also need to be provided.

Is that agreed?

Members *indicated agreement.*

The Convener: I thank members for their attendance at a very long meeting.

Meeting closed at 13:12.

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