

PUBLIC PETITIONS COMMITTEE

Tuesday 3 December 2002
(Morning)

Session 1

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CONTENTS

Tuesday 3 December 2002

	Col.
NEW PETITIONS	2479
Rural Bus Services (PE567)	2479
Bus Services (Re-regulation) (PE569)	2479
Doctors (Court Reports) (PE534)	2493
Renewable Energy Programme (Strategic Environmental Assessments) (PE559)	2502
Wind Farms (National Strategy) (PE564)	2502
Scottish Law (Protection of Minors) (PE565)	2514
Complementary Medicine (PE571)	2521
CURRENT PETITIONS	2527
Smoking in Public Places (PE503)	2527
Post Office Services (PE513 and PE542)	2529
Scottish Criminal Record Office (PE544)	2532
Organic Waste Disposal (PE327)	2536
Police Assaults (PE482)	2536
Employment of Teachers (Religious Discrimination) (PE269)	2538
INADMISSIBLE PETITIONS	2539
Sale of Fireworks (IP32)	2539
Human Rights (Prison Officers) (IP33).....	2539
CONVENER'S REPORT	2541

PUBLIC PETITIONS COMMITTEE

18th 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:

Rab A mos (Roslin Bus Action Group)

Jeremy Carter (Skye Windfarm Action Group)

David Cox

Bob Graham

Christine Grahame (South of Scotland) (SNP)

Dr Sylvia Jackson (Stirling) (SNP)

Ben Palmer (Skye Windfarm Action Group)

Duncan Shields (Fathers Fighting Injustice/International Men's Organisation)

Jacqueline Shields

Karen Shields

Mark Shields

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 3 December 2002

(Morning)

[THE DEPUTY CONVENER *opened the meeting at 10:07*]

The Deputy Convener (Helen Eadie): I welcome everyone to the 18th meeting of the Public Petitions Committee in 2002. We have received apologies from Winnie Ewing, who may arrive a little bit later this morning, and from the convener, John McAllion, who is away at the moment, so I am deputising in his absence.

New Petitions

Rural Bus Services (PE567)

Bus Services (Re-regulation) (PE569)

The Deputy Convener: I call Rab Amos and David Cox, the petitioners who will speak to petitions PE567 and PE569. Mr Amos is here on behalf of the Roslin Bus Action Group, calling on the Scottish Parliament to ensure that local authorities such as Midlothian Council can put into practice the spirit of the quality contracts system to enable rural communities to have an adequate bus service.

Once Mr Amos has spoken, we shall hear from David Cox, whose petition calls on the Scottish Parliament to urge the Scottish Executive to consider the re-regulation of the bus services.

Mr Amos, you have two minutes to make a statement before members ask questions.

Rab Amos (Roslin Bus Action Group): I thank the Public Petitions Committee for allowing the Roslin Bus Action Group to present its petition on the need for quality contracts for buses in Midlothian. We are aware that the issue of re-regulation has been mooted, and the people of Roslin are not opposed to that principle. The Scottish Parliament had the opportunity to re-regulate buses, but it chose not to go down that route.

Part of the Transport (Scotland) Act 2001 provided for the setting up of quality partnerships to meet the needs of those in our communities who may be disenfranchised. In Midlothian, those partnerships have either faltered or it has been deemed that the act has inadequate powers, which makes them meaningless.

Quality contracts are an agreement between local councils and bus companies to allow local input and knowledge into what bus services are required. That will allow for the openness and transparency of the decision-making processes in the provision of those services. That transparency does not presently exist. Lothian Buses runs 11 buses per hour from Penicuik to Edinburgh on the main bus corridor. Roslin sits on a horseshoe of 2 and a quarter miles, which connects to that corridor, yet for commercial reasons Lothian Buses refuses to divert one bus, unless it is subsidised.

This is the fourth campaign that the people of Roslin has been involved in after fears have been raised that they will have little or no access to public transport. Those fears have a traumatic effect on our elderly and disabled people, parents of disabled workers, youth and workers who simply want to get to their work. It is not social inclusion, but exclusion.

Our people should not have to endure those fears on a cyclical basis. We already see toll charges being imposed by City of Edinburgh Council, with a promise of jam tomorrow. Iain Gray is spending £10 million on electronic information signs and hundreds of thousands of pounds on adverts advising drivers to "let go". There is also free travel for our elderly. Those things are all very laudable, but for the citizens of Midlothian, without buses, they are laughable and create a picture of putting the cart before the horse.

The Scottish Executive's statements and Midlothian Council's transport document contain a vision of transport for all. That vision must capture the minds of the people of Scotland, otherwise it may end up as an apparition seen by only a few. We therefore call on the Scottish Parliament to put in place the necessary support resources so that local authorities, especially in rural areas, can seriously consider quality contracts. In addition, we are calling for the setting up of a bus passengers group with the same powers as the existing rail passengers group.

David Cox: I am here today because of the closure of the Peebles and Hawick bus depots, as well as the cuts in services in the Scottish Borders. I should point out first of all that I am here on behalf of the people of the Borders and not as a First Bus employee. I cannot talk about company business, only about how the public are affected by the cuts and the closure of the depot.

The closure of the depot restricts the type of service that can be delivered in the area. Maintenance and breakdown services are problems because they are operated from a satellite base in Galashiels, which is in the central borders. It is difficult for passengers to depend on services, because if there are breakdowns it is a

long time before another bus is in place or the service is back to normal.

Town services really affect primary school children and people going to their work within the town. In Peebles, the first town service is at 9 o'clock. The 8.20 am to 8.40 am service, which was provided to take schoolchildren from one side of the town to the other and to get people to their offices on time, was cut. People now have to walk for 30 minutes to get to their work or to the school, and that is causing major problems.

Rural communities, such as Broughton and West Linton, have very restricted bus services. The last bus from Peebles to Broughton is at 5.00 pm, which means that kids in those communities are really stranded. The first bus in the morning was cut back. People travelling to work at Stobo castle, for example, cannot get there. People who travel on the 6.00 am service from Galashiels arrive in Peebles at 7.00 am. The next bus that gets them to work is at 8.00 am.

10:15

Similarly, in Langlee in the Galashiels area, town services stop at 18:30. The service runs all day—every 10 minutes at times—yet, suddenly, there is nothing at night. There are buses that travel through the middle of the town, but it is very difficult for old people to climb the hills in that area. There is no service on Sundays either.

The fuel duty rebate applies. I do not know if the committee is aware of this, but bus companies that operate services are paid 36.68p per litre. The rebate is not paid on private hire or contract work for schoolchildren. The rebate was supposed to offset unprofitable runs and enable bus companies to run such services, for example late-night runs that carry few passengers. Bus companies are effectively running buses on diesel costs of 20p per litre, or £1 per gallon, which is quite a considerable reduction.

Concessionary travel was recently introduced by the Parliament. The number of users has increased and many people are travelling on concessionary fares, if and when they can get buses that go where they want.

Another important need is a bus service to connect with the proposed future rail service to Galashiels. Christine Grahame will expand on that.

People commuting into Edinburgh have a big problem. To get to Edinburgh today, I had to leave Innerleithen at 6.45 am. Later buses would not have got me here on time. It is haphazard whether people get to work on time, especially if people are waiting at bus stops at 8.30 am or 9.00 am.

As I said, children are isolated in their communities. The last bus from Galashiels at night

is at 21:20, which means that kids cannot go to the pictures and get back home to the Innerleithen, Walkerburn and Peebles area—they are stranded.

Last year, Scottish Borders Council paid a bus company in the Borders £1.392 million for contracts and fares. That is a substantial amount of money. In addition over £500,000 in fuel duty rebate was paid to the same company.

The Deputy Convener: I thank the petitioners. I welcome Christine Grahame, who will also speak in support of the petition.

Christine Grahame (South of Scotland) (SNP): There were 4,000 signatures to the petition. What the committee has heard from Midlothian and the Borders will apply to all rural communities, where the deregulation of bus services has had a dreadful effect. There should be re-regulation; in other words, more control over the contracts.

The only way that I can assist is to quote from some people in the Borders who have signed the petition. If he travels by bus, Ronnie Ross leaves home at 5 am to get to Edinburgh for 9 am. If he went by car, Mr Ross could leave home at 7.20 am. The City of Edinburgh Council is considering congestion charges, and the railway line to the Borders will not have to be in place before those charges are introduced. These petitioners have no option but to travel to Edinburgh by car.

Margaret Gorman works in personnel at the Borders general hospital, where the buses do not run to suit the shifts. Borders general hospital is outside Galashiels.

Farquhar Munro says that the bus service is not socially inclusive. It has already been mentioned that there is no service at Langlee on a Sunday. If tourists visit the area, there is nowhere to go in the Borders unless people travel by car.

Elizabeth Knox's daughter got a job in Melrose. She does not need to travel very far—it is just a connecting bus. Her point is about the cost of the bus fares, which are 70p to the bus station and £1.40 from Galashiels to Melrose. The bus fares are expensive.

Anne Charters is a nice lady who cannot get to church at all because there is no longer a bus service on Sunday from where she lives. She must get other people to take her to church.

Mr Ellis, who does not drive, has used buses since 1956. He says that there have been unbelievable changes. He also said that the problem is that the top chiefs do not listen to local people.

The condition of buses in the Borders is also a problem. First Bus has said that there will not be new buses in the Borders. The area is at the end

of the queue. That is not First Bus's fault—it is a commercial company. There are stories of buses breaking down and people having to transfer. People now expect the buses to be in a poor state. Those are the problems faced by people travelling to work or to school.

As regards tourism, I received an e-mail from the chief executive of the tourist board in the Borders, who said:

"To be honest, we have very few tourists who use the local bus services because they mostly arrive and travel around using their own cars".

There are no trains. He goes on to point out that, for those few who use the buses:

"I suspect the key issues are getting access to accurate, up-to-date bus timetables and, yes, the service away from the main routes is no good, if it even exists. To me, the key issue is the impact of the proposed rail link. Without a massive improvement to linking bus services, it will have next to no appeal to tourists travelling down from Edinburgh, who will be stranded at Tweedbank! Sorry I cannot be more fulsome in response."

The issue is social inclusion. People travelling to work or to school in the Borders require integrated bus services, which will be provided only by re-regulation. The economic impact must be considered also. There are no railway stations or airports in the Borders and now the region has lost two bus depots. If that is social inclusion, I need to reassess my definition of it. I was going to say something rude, but I will not.

Phil Gallie (South of Scotland) (Con): My first question is for Mr Cox and perhaps Christine Grahame will answer also. How will re-regulation change the current situation?

David Cox: With re-regulation, services would be spread across the day and not just restricted to profitable routes. The bus companies would have to cross-subsidise each other. They are only interested in big profits. If they were re-regulated, they would have to spread services to ensure that there are buses to take people to and from work, services late at night and adequate services to transport people throughout the countryside.

Phil Gallie: If companies cannot make a profit, they will not want to be involved. How will re-regulation help that situation?

David Cox: Until June, Mr Sharkey was the First Bus managing director in charge of the central region and the Borders. He left when the service cuts were implemented. When I started the petition, he told me that he would prefer the buses to be regulated. At least then the companies would be paid for running a basic service and anything on top of that would be a bonus.

Phil Gallie: Who would pay? Would the regulated bus service have to be heavily subsidised?

David Cox: At the moment, Borders Council is paying the bus companies a substantial amount—between £1.4 million and £1.8 million—to provide a basic service. The council is restricted by the amount of money that it has; therefore, it would want the Scottish Executive to provide funding. The Scottish Executive and the Government's policies call for social inclusion.

Christine Grahame: Would you like me to define re-regulation for the record?

Phil Gallie: No. Mr Cox is presenting a good case. He has explained the basics of re-regulation and how it would work, which is important. Borders Council and Midlothian Council have the opportunity to subsidise specific routes where they see a social need. However, that is not happening. Why is it not happening?

David Cox: It is not happening because of a lack of money. Last year, there was an overspend of £3.9 million on education in the Borders. Much of the education budget is allocated to transportation. A lot of the money is tied up. The council has to decide where to spend the money and, therefore, it tries to prioritise it on essential services to keep the basics in place.

Phil Gallie: If there was re-regulation, would the Scottish Executive have to provide direct funding, missing out the middle man, which is the council?

David Cox: The Executive would have to examine how the services are provided in the Borders. It would have to investigate where there is need and which communities were left out. For a number of years, the council has had to cut back services because of a lack of money and passengers.

Phil Gallie: I am not exactly unsympathetic to the petition. At the committee's previous meeting, a group from Hawick came to complain about a further education college being moved to Galashiels. That demonstrates the difficulties that people in the Borders face.

David Cox: In December or January, Councillor David Paterson from Hawick e-mailed council officials to highlight what the likely outcome would be for certain bus depots of the loss of contracts in the area. The council officials brushed that aside and took no heed of the warning of what would happen. As we know, the Hawick and Peebles depots have closed, proving that Councillor Paterson was right to point out the danger at the time. He did a lot of work behind the scenes.

Rhoda Grant (Highlands and Islands) (Lab): You mentioned that the cuts in bus services were affecting school children. Do those children have a statutory right to be transported to school or are they too close to the school to have that right?

David Cox: They are within the three-mile boundary, which means that they do not qualify for free transport. However, most of the kids paid their 30p to get from one side of the town to the other. Some kids got picked up on the south side of Peebles at quarter to nine to start school at nine o'clock. As they ranged from primary 1 to primary 7, the older ones looked after the smaller ones and they were able to get to school themselves, without having to be accompanied by parents. Now, however, they have to walk with their parents across town, as it is too far for them to walk on their own.

Rhoda Grant: Both petitioners mentioned the amount of subsidy that the councils are paying for contracts. Are the councils consulting the public about how those contracts should be drawn up, when the buses should be available and so on?

Rab Amos: No. The latest problem with buses in the Roslin and Auchendinnie area is that the council decided that, because of budget crises, subsidies would have to be put under the microscope. Those subsidies affect the transport arrangements throughout Midlothian. The council opted to have a link bus, which has been popularly renamed the loony bus or the Postman Pat bus. It takes one hour to travel three miles from Roslin to Penicuik because of the circuitous route that it uses. People in the local community have no input into the bus plans.

Even on subsidised routes, one bus is deemed to be a commercial bus and one is subsidised, but there is only a two-minute difference between the times when they arrive at the bus stop. When we challenge the bus companies to examine how that situation can be dealt with properly, they indicate that if they became involved in that sort of discussion, the Office of Fair Trading would say that they were organising a cartel. However, if they are unable to talk about such issues, any attempt to get an integrated transport policy will fail. Bus companies, rail companies and whoever else is responsible for transport must be able to sit down and talk about how a timeous transport system can be delivered.

Rhoda Grant: I have a great deal of sympathy with the petitioners because I represent a part of the world in which there are similar issues of low population and not many people using bus services. How many people use the available services? Would those people be better served by something along the lines of the dial-a-bus service, which exists in parts of the Highlands and through which, for example, if a young person wants to go to an after school sports club, they can dial and book a bus. Rather than having services running empty, the system allows people to book buses to pick them up at certain times.

10:30

Rab Amos: A range of services that would meet the needs of local communities might be considered. As I explained in the evidence that I gave previously, despite the fact that Roslin has a population of around 2,500, that it contains the second largest employer in the Midlothian area and that around 37,000 people a year visit Rosslyn chapel, we are classified as a rural community. For the life of me, I cannot find out from the bus companies why, given the population and visitors, Roslin is deemed as non-commercial. The reason that the bus companies refuse to give us the information is that it is of commercial interest to them. Even though Midlothian Council is a shareholder in Lothian Buses, we are unable to get that evidence and information. There is a lack of transparency.

The dial-a-bus system is commendable. In Roslin, young people participate in violin classes at Beeslack Community High, but the parents have to pay for taxis to take them from Roslin Primary School.

Christine Grahame: Re-regulation would entail three parts, which would all involve imposing statutory duties on local authorities. The first part would be to impose a statutory duty on local authorities to develop clear policies and to publish a local transport plan. The second would be to impose a statutory duty on local authorities to specify what local services must be provided and, following a tendering process, to franchise out exclusive rights for those routes to the winning bus operator. The third part would be to impose a statutory duty on local authorities to set up integrated ticketing schemes and to require operators of local bus services to participate in those schemes.

Re-regulation does not necessarily mean that local authorities would have to own and run the buses, but it involves imposing much stronger statutory duties on local authorities. We are in a strong bargaining position because bus operators must have somebody to provide buses for. The balance has gone too far towards profit and away from services. Re-regulation might involve extra financing, but the statutory duties would be clearly determined and local authorities would be held to be in breach of them if the services, as laid out in the local plan, were not provided.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): We have just heard an explanation of re-regulation, but I want to mention deregulation. Prior to the time of deregulation, many private bus companies provided services throughout the country. Deregulation created a bus war that eventually created a monopoly. There are now four large bus operators in Scotland that have absorbed the opposition and that seem to

have a monopoly. Has that process had an effect on the rural services that were provided previously? The story that the petitioners present is replicated throughout Scotland's rural areas.

David Cox: The Borders, like other rural areas around Edinburgh, are paying the price for last year's Edinburgh bus war. Companies lost a great deal of money trying to compete with one another and must make savings somewhere. That is why depots are being closed and services are being cut. Everything is being cut back to the bare minimum, so that companies may make money. If people want services outwith the times that the companies have set down, the companies want to be paid in full for running those services. The people of the Borders are suffering because of the bus war.

Rab Amos: In Midlothian we have already had discussions with Chris Blyth from First Bus. He indicated that when the deregulation process started, First Bus decided to take on Lothian Buses with a view to capturing the very profitable and highly commercial market in Edinburgh. That campaign was totally unsuccessful. The battle was about providing cheap fares and First Bus lost it. Lothian Buses is now taking the routes that First Bus used to service. Historically, red buses were Edinburgh buses, whereas green buses serviced West Lothian, East Lothian and Midlothian. First Bus has admitted that its tactic of challenging Lothian Buses for control of the commercial market in Edinburgh failed. It is reviewing its strategy and is trying to re-establish its historical position as a provider of services in rural areas. Its problem is that it cannot run those services unless they are commercially viable.

John Farquhar Munro: I understand the point that you make. However, if the Government and local authorities are unable to persuade the bus companies to run a service, because they consider it to be unprofitable, that service will not get off the ground. Do you have information about the extent to which Scottish Borders Council has accessed the community transport and rural transport funds, which were established to assist companies to provide services in areas where they were unable to make a profit?

David Cox: I do not have the exact figures—Scottish Borders Council would have those. I am not sure what services were run under the schemes to which the member refers. I know that recently Farquhar Munro from Langlee received an e-mail from the Scottish Executive that highlighted that councils could apply to those funds for resources to run services for the socially excluded, old people, young people and young kids. I passed on that information to our local manager at Galashiels. I do not know to what extent he has investigated whether it is relevant to services in the area.

John Farquhar Munro: You have good knowledge of how the bus companies operate and of the expenses that are attached to operating buses. You mentioned the fuel rebate on fare stage routes. What rebate do bus companies enjoy on fuel? What is the cost of the road fund licence for a 48-seater coach?

David Cox: Bus companies receive something like 36.68p per litre.

John Farquhar Munro: So the rebate is quite substantial.

David Cox: Yes. When VAT is subtracted, the cost of fuel is something like 18p or 20p. There would be no extra cost in using buses for extra services—the cost of buses is already covered by existing services.

I guess that the yearly test would cost £300 or £400.

John Farquhar Munro: What about the road fund licence? Do you know the cost of that?

David Cox: No.

John Farquhar Munro: I think that it is about £150 for a 48-seater bus, as opposed to an articulated vehicle, for which about £3,000 has to be paid. That is quite a difference.

Dorothy-Grace Elder (Glasgow) (Ind): You have presented a powerful case, about a matter that goes right to the heart of communities. It is not a passing bus, by any means; it affects people's lives.

Have you made any moves to contact other groups in Scotland? This could be a national issue. Perhaps you are worse affected in Roslin and in the Borders, although you are close to Edinburgh. There have always been those quirks.

You said that you left Innerleithen at 6.45 am to get to the committee meeting in Edinburgh at 10 am, yet Innerleithen is only 35 or 40 miles away. You could have flown to Italy in three and a quarter hours. It is preposterous. We must consider how cheap air travel is; the considerable expense of bus travel has been mentioned. The most important point is the length of time that the journey takes. Christine Grahame said that Ronnie Ross had to leave at 5 am to get to Edinburgh at 9 am. Is this not a national issue or are you particularly badly affected? Are you linked with other groups?

David Cox: We are not the only people affected in Scotland. I have read in the *Edinburgh Evening News* that West Lothian has also been affected. Commuters from there have had problems getting in and out of town. Services were cut to the core—only the profitable ones ran.

Dorothy-Grace Elder: Trains serve West Lothian, although there are not many of them.

David Cox: That is right. We do not have trains in the Borders; we lost rail services in the 1960s.

Dorothy-Grace Elder: Are you linked with any other groups in Scotland?

David Cox: We are not linked with other groups. Twenty-odd drivers from Peebles organised the campaign among themselves. We held a meeting in Peebles, which Christine Grahame chaired; more than 200 people attended to express their views.

I think that the issue affects communities throughout Scotland that are not in a profitable area for bus companies. Aberdeen, Glasgow and Edinburgh are profitable; bus companies would not be there if they were not profitable. Rural areas are a problem. If we want people to give up cars and get on buses, something must be done to provide transport for them from their community.

Dorothy-Grace Elder: Does Rab Amos think that it is unusually unjust—let us put it that way—that, despite being so near to Edinburgh, you are so completely isolated transport-wise? Are you worse off than people in some parts of the Highlands, where there is a railway line here and there?

Rab Amos: We are worse off in many ways. Roslin is 8 miles from Edinburgh city centre.

Dorothy-Grace Elder: Eight miles?

Rab Amos: Yes.

Dorothy-Grace Elder: How long does it take you to get here?

Rab Amos: The bus that we have now, the 315, takes one and a half hours to travel that 8 miles. As I said, the previous link service that was put on to placate the people of Roslin after the removal of subsidies provided a bus service for people to go to Penicuik. Many elderly people and young mothers use Penicuik for banking, nurseries, shopping and so forth. That bus took an hour to travel 3 miles because of the circuitous route. It would be quicker to go to Italy and just as quick to go to Glasgow from Roslin.

Dorothy-Grace Elder: Did someone refer to the post bus situation?

Rab Amos: That was the name that the local communities have now given to the services—they call them Postman Pat buses.

Dorothy-Grace Elder: Did you say that the post bus took an extraordinary long time to go its rounds or did I mishear you?

Rab Amos: The community uses “Postman Pat buses” as a nickname.

Dorothy-Grace Elder: I understand, but the post bus service—

Rab Amos: There is such a service, but none of those buses comes through Roslin. That is another avenue for making transport available for people in rural communities.

Phil Gallie: I will make a controversial point. The witnesses mentioned fuel subsidies. Given the fact that everybody here recognises that in rural communities the car is an essential item for most families, do you agree that we should consider distributing the fuel relief to the petrol pumps in the Borders rather than to the bus companies?

David Cox: In fact, of the 110,000 or 115,000 or so people who live in the Borders, 30,000 are without a car. That is a lot of people. Between a quarter and a third of people probably do not have access to a car and so are dependent on bus services.

10:45

Phil Gallie: Okay. I said that my question was controversial. It was also somewhat tongue in cheek.

Rab Amos: I know that the argument was tongue in cheek, but one perception that exists is that bus users are second-class citizens. If we were talking about rail users, the issue would have been highlighted and resolved through central Government funding or by some other means. However, there is a strong perception that bus users are second-class citizens and are entitled only to a second-class service.

That is why the Roslin Bus Action Group is calling for the powers to be given to establish a bus passenger group with the same powers and influence as the rail passenger group. That might go down the road towards enabling us to connect other communities throughout Scotland that do not have access. The difficulty is that most bus campaigns have been developed on a reactive basis. Without the collective voice that could be developed through a passenger group, the response will always be reactive rather than proactive. As people within our communities, we are entitled to be proactive and to be involved in the decision-making processes.

David Cox: The bus user complaints tribunal, which was introduced by the Scottish Executive either last year or early this year, has the powers to compensate passengers for things such as disruptions in services. As far as I am aware, no passenger has followed that route yet, but passengers will be entitled to compensation from bus companies. That might also be worth considering.

Dr Winnie Ewing (Highlands and Islands) (SNP): Do you know whether the bus user complaints tribunal is a successor to the transport

users committee, which embraced all transport users?

David Cox: The tribunal was introduced under the Transport (Scotland) Act 2001. Obviously, I get information only from the internet and in wee bits and pieces from press reports. Members will be more able to get information about the tribunal than I am.

Rab Amos: The tribunal deals only with complaints from passengers who wish to be compensated for a lack of service or for a bus breaking down or not turning up. As far as I understand it, the tribunal has few or no powers to influence how rural bus services are delivered. That denies the transparency that is necessary for the communities in which we live. If, after people have been involved in the decision-making process, they are told that they cannot get a bus service, they will readily accept that because they are politically mature enough to understand.

The Deputy Convener: We can certainly ask that question of the Executive when we consider the action that we will take.

I thank the petitioners. They have presented their case well and have answered questions well, for which we are grateful. The petitioners are welcome to stay seated for the moment as we turn to the part of the meeting in which members consider the evidence and determine what action we will take arising from that. Thereafter, the committee will, through the clerks, keep the petitioners well informed about the actions and the answers that we get.

David Cox: I brought along some timetables that have come out over the last six months. If the committee wishes to plan a route, it could try and do so.

The Deputy Convener: You have certainly come well prepared this morning. We are indebted to you for that. I am sure that the committee clerks will take that information from you.

We now move to ask members for their views on how we should proceed with the petitions, and members should have copies of the suggested action. Although both petitions appear to share the objective of ensuring the provision of adequate bus services for rural communities, they suggest different ways in which that might be achieved. PE567 calls for the introduction of quality contract schemes, while PE569 requests re-regulation. In contrast, both Midlothian Council and Lothian Buses believe that neither re-regulation nor the implementation of quality contract schemes would address the fundamental problem, which is that councils do not have the resources to subsidise non-profitable bus services in rural communities. That point was brought out well.

It is suggested that the committee should agree to write to the Scottish Executive seeking its views on the issues that are raised in the petition. In particular, we should request details of the reasons for local authorities' failure to date to adopt quality partnership or quality contract schemes and an indication of whether their decisions have been influenced by resource limitations. We should also ask for details of the measures that the Executive is taking to encourage the adoption of quality partnership or quality contract schemes by local authorities, including an indication of whether the Executive is likely to make more resources available to local authorities for that purpose.

We should also request the Executive's comments on the petitioners' claims that cuts in bus services are occurring in rural communities throughout Scotland and clarification of its position on the possibility of re-regulating bus services or examining alternative means of ensuring the provision of adequate bus services in rural areas. On receipt of the Executive's response to PE567 and PE569, it is suggested that the committee should agree to revisit the issues that were raised in PE420 before deciding the course of action to be taken on the three related petitions.

Points were made about the bus passenger group transport committee, and we should ask the Executive about the collective voice in Scotland. There might be merit in considering the community transport and rural transport funds, which were mentioned by John Farquhar Munro. We should perhaps ask Scottish Borders Council about its involvement in those funds and about public consultation, which was also mentioned earlier. Do members agree with those actions, and are there any additional actions that they want to propose?

Dr Ewing: I am sorry that I was late; my plane was not working.

I have two questions. Could we mention the environmental aspect? If we want to encourage people not to use cars, it would be relevant to quote the figure, which we have just heard, about 30,000 of 115,000 people in the Borders not having access to cars.

My second question is about the bus users complaints tribunal. It seemed to be suggested that the tribunal deals only with compensation for passengers. I would have to examine the law, but I would be surprised if that were true, because the transport users consultative committee, which covered other forms of transport, discussed the adequacy of a service when it was threatened with cancellation. Could we ascertain the powers of the bus user complaints tribunal?

The Deputy Convener: We could ask what the body covers and relay that information to the committee.

Dorothy-Grace Elder: I feel that there is a great illusion going on with the use of the term “services”. There should be another term for the services that have been cut beyond the point of them being a regular bus service.

The Deputy Convener: That is almost implicit in everything that we are doing.

Phil Gallie: Fuel tax relief was mentioned. I agree that that should be directed towards the companies, as long as they are providing a service to the rural communities that they should be serving. I would like to ask whether the Scottish Executive is content that the tax relief that is given to the bus companies is being used appropriately in the provision of services.

The Deputy Convener: All those points are relevant. We have made a note of them, we will write to the Scottish Executive and we will get back to the petitioners. As members have no further suggestions, I thank you on behalf of the committee. Your attendance has been helpful. I am sure that the issue is relevant not only in the Scottish Borders, but in other parts of Scotland.

David Cox: It might be worth while consulting the traffic commissioners, who play a major part in the process.

The Deputy Convener: We will wait for the Executive’s response first, but we will hold on to your suggestion.

Doctors (Court Reports) (PE534)

The Deputy Convener: Our next petition is PE534. Mr Shields is the petitioner, on behalf of Fathers Fighting Injustice and the International Men’s Organisation. He calls for the Scottish Parliament to readdress the issues that were raised in PE352, which related to the use of doctors’ reports in court actions. I welcome Mr Shields, who will make a brief presentation. You have three minutes.

Duncan Shields (Fathers Fighting Injustice/International Men’s Organisation): We thank the committee for allowing us to present the petition; we especially thank the clerk to the committee, Mr Farrell. On behalf of Fathers Fighting Injustice and the International Men’s Organisation, we provide the following evidence.

It is hard to believe that, in a society that is supposedly civilised, doctors such as Harold Shipman have been getting away with murder for so long. They have remained undetected because regulation, which is almost non-existent, exposes only one group of murdering professionals.

Paul Burrell, the late Princess Di’s butler, became suicidal when he faced the full weight of the legal process. He was an innocent victim of

secret society powers. Injustices within the legal processes of Scotland are pushing vulnerable people over the edge. Evidence of that persecution has been documented in the legal profession inquiry that has just been completed.

The *Journal of Family Studies* from October 1995 states:

“Separated males commit suicide at 6.2 times the rate of married males.”

It is reported that 700 men died of suicide in Scotland in 2000. We believe that that figure represents the tip of a very big iceberg. The failure to ensure that suicides are recorded accurately that results from giving doctors discretion when recording a death means that families can be convinced that putting natural causes as the cause of death will take away some of the stigma. That is totally unacceptable; it is a means for disguising the true suicide statistics.

I will quote from an international report that was produced by the Griffith University in Australia:

“Suicide data are the end result of a chain of informants which involves those finding the body ... doctors, police, coroners and statisticians. Any of these may for a variety of reasons be reluctant to call a death a suicide. For example, a suicide may be voluntarily hidden to avoid stigmatisation, for social convenience, for political reasons”.

Such political motivation is of serious concern. It is a well-known fact that failure to call a death a suicide is a common occurrence. It represents a serious blight on the need to detail accurately how many people die from committing suicide each year.

We have provided the committee with the most detailed international report that has ever been written on suicide, which was completed by Professors Cantor and Baume in Australia. The report states:

“research shows the risk of suicide is far higher for men in the period following marital separation—the suicide risk among separated men was 18 times that of separated women. The real risk is within four to six weeks of the separation rather than after divorce.”

At that time, the legal system kicks in with massive discriminatory injustice against fathers and their children. Lawyers use unsubstantiated doctors’ reports to impose that injustice via social services. Lawyers know that doctors are self-regulating in the same way that they are. The fact that doctors are seemingly untouchable was proved by the Shipman inquiry. The fact that the General Medical Council has been allowing doctors to get away with murder can lead to vulnerable men committing suicide.

The abuse of power and the ability to asset-strip in death that were exercised in the Shipman case must be dealt with and the persecutive door must be closed. Those who abuse power—doctors,

lawyers, judges and the politicians who must take ultimate responsibility for such abuses by funding the system through legal aid—must be held accountable for the deaths of men in the appalling, persecutive, secret star chamber family court system that is found in Scottish courts.

It takes very little intellect to see the connections to those deaths. Suggesting that such deaths are complex allows that system to continue to commit stealth murder in silence. Safeguards must be put in place to stop the mass culling of men. Petition PE352 indicated that there were insufficient safeguards under the GMC regulations two years ago. Although the Minister for Health and Community Care has seen fit to create additional safeguards, that action does not go far enough to resolve the issues that I have raised.

The Deputy Convener: Thank you very much. I invite members to ask questions.

Dr Ewing: I should first disclose the fact that I am a member of the Law Society of Scotland.

I am quite surprised by the intemperate language that has been used. To be frank, I have never heard of doctors' discretion in connection with death certificates. I really thought that doctors had a duty to record faithfully what a person had died of. Of course, I might be learning something new today.

As for doctors' undue influence in custody cases, I speak from experience as a female solicitor at the Glasgow bar who was regularly appointed by the court in disputed custody cases. I had no axe to grind; I did not know the people. I was asked to meet the family—

11:00

The Deputy Convener: I am sorry to interrupt you, Winnie. You are making some good points, but could you make them a bit more quickly?

Dr Ewing: I do not accept the point about doctors having undue influence in custody cases. I just do not believe that that is the case. It is not their job and, indeed, I have never seen them exercise such influence in my practice.

On the assertion about the financial gains that are made from winding up a person's estate, lawyers can charge for that work only if they have been so instructed by the deceased. I find the innuendos in the petition ludicrous.

Duncan Shields: The International Association of Suicide Prevention at Griffith University carried out the most thorough research ever into this issue, and its report states clearly that there are political reasons why cases of suicide can be covered up. Doctors cover up such matters. For example, while Harold Shipman was murdering

people, he was being asked by social services to provide evidence for court actions. I am gravely concerned about how he could possibly make assumptions about family circumstances when he was murdering people. Indeed, that question has never been resolved. There is more than one Harold Shipman in Britain, as we know from cases in which fathers have died because of psychological trauma—

Dr Ewing: But that was an English case.

The Deputy Convener: Mr Shields, you have submitted a document that relates to another country entirely—

Duncan Shields: It is an international document. It covers all countries.

The Deputy Convener: Let me finish my question. I was wondering whether you could back up your assertions with evidence from a Scottish context. As Dr Ewing pointed out, you have made some fairly serious assertions and you are obliged to back them up.

Duncan Shields: The evidence is contained in the document. It includes UK statistics.

The Deputy Convener: With all due respect, that is an international document. I am asking for evidence that relates to Scotland. Things have moved on significantly since the Shipman case, and the Scottish Executive has introduced a number of measures that go a long way towards removing many of the aspects that allowed such a situation to happen. Do you have any specific evidence in that respect?

Duncan Shields: I have figures from the Scottish Executive. In 2000, 700 men committed suicide in Scotland. Moreover, the newspapers yesterday carried a report in which Malcolm Chisholm stated that he would spend another £12 million on examining further concerns about suicide, particularly in relation to young men. However, we need action to ensure that inquests into suicide—

The Deputy Convener: But—

Duncan Shields: Can I finish please? Inquests into suicide should investigate litigation if that was taking place prior to the death. We have a figure of 700 men—

The Deputy Convener: With respect, Mr Shields, we are not asking you for a statement about the number of suicides in Scotland. Instead, we are asking you to provide evidence to back up your serious assertions about collusion.

Duncan Shields: That is what I am saying. Seven hundred men died in 2000 and, as Mr Chisholm said yesterday, even more than that died in 2001-02. We ask that inquests should examine the background of suicide, because such cases need further investigation.

Furthermore, some of the figures are not correct because of the discretion that doctors are given. I have demonstrated that there is clear evidence that a suicide might be voluntarily hidden to avoid stigmatisation, for social convenience or for political reasons. As a result, that figure of 700 is not high enough.

Phil Gallie: You have highlighted the real problem of the level of male suicide, particularly in the younger age bracket of 18 to 25-year-olds. On reflection, do you think that the petition would have been better directed towards that area rather than the more general aspect that the petition covers?

Duncan Shields: Our first concern is the suicide figures, which we believe to be inaccurate because causes of death that include certain issues, such as the effects of being involved in litigation, are masked. Karin Hoffer recently published a book called "Legal Abuse Syndrome", in which she states that many victims of the legal system suffer from post-traumatic stress disorder. She characterised that as legal abuse syndrome brought on by abusive and protracted litigation in our courts.

According to Ms Hoffer, one might be suffering from legal abuse syndrome if one feels: deeply disillusioned and oppressed because of one's experience of the legal system; frustrated in obtaining justice; that the dreams and plans for one's life have been torn from one by a system that supposedly protects one's rights and property; that that system will defeat one at every turn and that nothing can be done about it; and that one has been victimised several times over by perpetrators such as lawyers, judges, bailiffs and other court personnel as a consequence—

Phil Gallie: All right, Mr Shields.

Duncan Shields: Can I just finish? I have just one wee bit.

Phil Gallie: No, Mr Shields. You are expressing somebody else's opinion, but I accept that.

Duncan Shields: Ms Hoffer's opinion is important because she has over 20 years' experience in the field.

Phil Gallie: I want to know what the petition's purpose is and where we are going with it. My view is that you have identified an issue that must be considered further. The issue is the suicides of young males and problems associated with litigation that might be involved in the suicides.

Duncan Shields: Exactly.

Phil Gallie: If the Minister for Health and Community Care were to conduct further investigations into suicides, would it satisfy you if he looked particularly into the issue of the suicides of young males?

Duncan Shields: Very much so, Mr Gallie. That is a very important issue. The legal process is failing to take due account of physical and mental health issues.

Phil Gallie: All right. Again, that is your assertion. I want to consider what the minister could come up with that would satisfy you a little. If he investigated suicides, particularly the issue of those who were involved in litigation prior to their suicide, that would satisfy your requirements.

Duncan Shields: I would be satisfied if that investigation included looking at doctors' ability to convince families of the stigma attached to suicide, which allows doctors to falsify death certificates. I am also concerned about whether the figure of 700 for 2000 is correct and not the tip of an iceberg.

Phil Gallie: Thank you.

Dorothy-Grace Elder: As you perhaps know, doctors do not normally put "suicide" on a death certificate. We might trust at the start our lives, but as we go through life most of us learn not to trust. We learn not to trust professionals carte-blanche, but to ask them questions. Nevertheless, as Phil Gallie pointed out, considerable work is being done on suicide. In fact, from the inception of the Parliament there has been an unprecedented steer—backed by all parties—towards investigating the dreadful problem of suicide. Further, the Executive has taken some positive action in the past couple of days. Would you be content to await the long-term results of that action? Do you accept that we are trying to do something?

Duncan Shields: The Executive's action is definitely an improvement on what was done previously. However, the Minister for Health and Community Care is still not identifying the true causes of suicide. As long as the fact is avoided that litigation can play a substantial part in post-traumatic stress disorder and that vulnerable people are monstrously affected by the brutality in courts, which can push them—

Dorothy-Grace Elder: But Mr Shields, do you accept—

Duncan Shields: There are young children in the public gallery today—

Dorothy-Grace Elder: Sorry, just a minute—

The Deputy Convener: Mr Shields, could you listen?

Duncan Shields: Okay.

Dorothy-Grace Elder: Do you accept, for example, that when a suicide occurs and the press inquire about it, the police are extremely discreet? They will say that someone has collapsed and died, but will not say outright that there has been a

suicide because obviously they are thinking of children and relations. They cannot state outright that there has been a suicide. Surely the quality of mercy must sometimes be involved in not making it public that someone has committed suicide.

Duncan Shields: But if there is to be a project to find out the causes of suicide, there must be an accurate assessment of the figures, even if that is done in private. In the public gallery there is an aged person and three young children—never mind fathers and men—who have been massively affected by the brutality in Scottish courts. That is of serious concern. Vulnerable people are being attacked and pushed over the edge. Part of that process is the asset-stripping of somebody on their death. The Harold Shipman case showed that for many years he was getting—

Dorothy-Grace Elder: To be fair, we have not had a Shipman in Scotland—or at least a Shipman has not been found yet in Scotland. England also had a John Bodkin Adams.

Duncan Shields: Shipman gained as a result of signing death certificates, as did the lawyers who gained from the closure of the estates.

The Deputy Convener: You came before the committee on a previous occasion on the same issue, Mr Shields. The information that we passed to you at that point showed the massive amount of work that had been done in the Scottish context to address the matter. Members are concerned because, as yet, you have not given us evidence to substantiate a number of the assertions that you have made. Everyone has sympathy for people who have suffered as a result of individual suicides. However, you have made serious allegations against professions in Scotland and the committee wants to be reassured that you will provide the evidence that lies behind those allegations.

Duncan Shields: I have already proved that—

The Deputy Convener: With due respect, you have not proved anything.

Duncan Shields: I am sorry, but I have—

The Deputy Convener: You have given us only an account of the issues that you have raised, but that has not provided us with answers as yet. Other issues that you raise in your petition are being addressed in some of the Parliament's ongoing work. Dorothy Grace-Elder is a member of the Health and Community Care Committee and is well qualified to respond.

Duncan Shields: If the Scottish Executive is doing so much, why are the suicide figures going up? If the Executive is doing such a good job, the figures should be going down.

The Deputy Convener: As members of the committee do not have further questions for Mr Shields, I thank him for giving evidence on PE534.

We will now consider the action that we should take as a result of Mr Shields's presentation of the petition. You are welcome to stay and hear the discussion, Mr Shields, but it is now up to members to debate the issue.

In my opinion, it is unlikely that the Executive's position on the issues that were raised in PE352 will have changed over the past 18 months. Following consideration of the Executive's response to PE352, the committee took the view that adequate safeguards were in place to protect against undue influence from doctors in custody cases.

However, PE534 appears to raise additional concerns regarding flawed medical reports in courts. It is alleged that the true cause of death in cases of suicide is often concealed to cover up the circumstances in which court rulings, which prevented fathers from having contact with their children, contributed to the suicide. The petitioner also expresses concern that some doctors and lawyers gain financially from the winding up of a person's estate after their suicide.

Although the measures that the Executive is considering at present do not directly address the petitioner's concerns, it is suggested that tighter controls and monitoring requirements are likely to make it more difficult for doctors to present flawed reports to the courts in relation to causes of death, if indeed that occurs.

The committee will wish to consider whether PE534 raises any new issues that would merit further consideration. If the committee is minded to pursue the petition further, we could write to the Executive seeking its comments on the general issues that the petition raises, together with a request for an update on progress following the announcement of its proposals in the wake of the Shipman inquiry. Do members have anything to add to those suggestions?

Phil Gallie: I have a couple of points to make. Mr Shields's presentation was rather intemperate at times, but that should not mask the fact that he has a point to make. The issue is not necessarily that doctors are falsely identifying medical assessments; perhaps it is more to do with social work and other departments' interpretation of the assessments when family decisions are determined. That wider question has to be addressed somewhere along the line.

Sticking to the subject of PE534, I believe that it would be worth while to raise the issue with Malcolm Chisholm. The petition makes the point about the number of male suicides that result from family break-ups and from court decisions about children. If we were to raise that issue with the minister, we would be doing justice to the petitioner and, at the same time, doing the nation a service.

11:15

Dorothy-Grace Elder: There are many strands in Mr Shields's petition, which is perhaps a problem, in that there are several people to write to. I suggest that the committee write to the Law Society of Scotland and ask what safeguards the public have regarding the distribution of moneys from wills and the handling of work on wills. We get an enormous amount of complaints and we know that there are people shivering outside the Parliament almost every week complaining about lawyers—with the exception of our distinguished colleague, Dr Winnie Ewing, who did not go into the law to make large amounts of money.

Dr Ewing: I never did, either.

Dorothy-Grace Elder: No, and there are other lawyers like that. However, many lawyers make a fortune. It is a very secretive trade, especially in relation to wills. I have come across some extremely disturbing cases. Can we write to the Law Society of Scotland?

The Deputy Convener: I have made a note of that.

Dr Ewing: What exactly will we ask the Law Society?

Dorothy-Grace Elder: We will ask the Law Society what safeguards the public have in relation to beneficiaries and will making. We could also ask for statistics on the number of wills that are handled in Scotland in a year. Only wills over a certain value of estate are published.

The Deputy Convener: Looking at members' faces, I am not sure that there is unanimity on that.

Dr Ewing: Certainly not.

Rhoda Grant: I am a little puzzled by that. A person making a will instructs a lawyer to make that will on their behalf. I do not understand what safeguards are needed. It is up to the individual to organise a will. A lawyer will not draw up a will unless instructed to do so.

Dorothy-Grace Elder: People complain about the way in which wills have been drawn up and about the time delays.

Rhoda Grant: Usually when they miss out.

Dorothy-Grace Elder: Yes, exactly. People complain about the time delay in distributing estates and about estates evaporating.

The Deputy Convener: With respect, that is not the main topic of the petition. I sense that members do not feel comfortable with that suggestion. Unless committee members feel strongly, we should perhaps leave that issue aside.

Phil Gallie: One point occurred to me as I listened to what Mr Shields said. There are perhaps times when doctors would cover up a

suicide, as he suggested. Given Dorothy-Grace Elder's comments, there might be a financial reason for that, but perhaps the doctor feels sorrow for family members who have suffered a bereavement and wants to see some benefits going to them by way of insurance certification or whatever. In some instances, a doctor will take a very sympathetic line. I would not like to think that we are putting pressure on all doctors not to have a bit of compassion, at least, in their decisions.

The Deputy Convener: That is a pertinent point. I have noted Phil Gallie's general point about writing to the Scottish Executive about the number of suicides that are linked with litigation and family separation. We will also ask the Executive about its proposals in the wake of the Shipman inquiry. It would be useful to know about that, as the Executive has done a lot of work on it.

Thank you for attending the committee, Mr Shields.

Renewable Energy Programme (Strategic Environmental Assessments) (PE559)

Wind Farms (National Strategy) (PE564)

The Deputy Convener: We will take the next two petitions—PE559 and PE564—together. I welcome Mr Jeremy Carter, Mr Ben Palmer and Mr Bob Graham to the committee; it is a pleasure to have you with us. I will give you a moment or two to settle down, after which we will hear from Mr Ben Palmer on PE559, which calls on the Scottish Parliament to take the necessary steps to support a strategic and environmental assessment of Scotland's renewable energy programme. We will follow the usual format: you have three minutes to speak to the committee, after which committee members will ask questions.

Ben Palmer (Skye Windfarm Action Group): Good morning. Thank you for giving us this opportunity to present the petition to the Scottish Parliament. Dr Jeremy Carter will support me if you have any questions of a technical or legislative nature. I will be quite happy to answer questions on anything else.

The Skye Windfarm Action Group respectfully petitions the Scottish Parliament for a strategic environmental assessment of the Scottish renewable energy programme. We support the elimination of all unsustainable and polluting sources of energy and their replacement by clean, sustainable sources, in conjunction with a widespread programme of energy conservation. We note with dismay the destructive potential of an energy programme that is based solely on broad targets and commercial self-interest and that relies on site-specific environmental impact assessments, which are often done by developers

that have poor environmental records, with planning authorities that are unwilling or unable to address issues of cumulative impact.

In particular, we are concerned about the adverse environmental impacts of the existing programme on the social fabric of our fragile communities, on the economic activities on which our communities depend, on our blanket bog and heathland habitats and on our protected birds. For example, the Edinbane wind farm proposal for Skye has already irreparably split our local community. It threatens our prime industry, which is tourism, and will damage large sections of an important carbon store, as well as our golden eagle population. The environmental statement was one of the worst that Dr Anne McCall of RSPB Scotland and the Royal Town Planning Institute had seen, yet the application was approved despite Dr McCall's warning that Highland Council was laying itself open to judicial review. That highlights the inadequacy of the existing system.

If Scotland, like Wales, is to become the backyard for England's power consumers, it is essential that the immense potential damage from installations and grid upgrades is properly assessed and minimised. That can be done only at national level, with a moratorium on all commercial renewable energy projects until a sustainable energy strategy for Scotland has been developed. Wind farm Klondiking is unsustainable. Strategic environmental assessment will be mandatory from July 2004, but if offshore wind farm proposals for the Wash, Solway and Thames merit such assessment now, surely the proposals for Scotland do, too.

The Deputy Convener: Mr Graham, do you wish to speak?

Bob Graham: Good morning and thank you for giving us the opportunity to be here. I say hello to Dr Winnie Ewing, who probably does not remember me, but she was the MP when I lived in Forres. Like Ben Palmer and Jeremy Carter, I am a confirmed environmentalist and I totally support the principle of renewable energy.

My petition PE564 has only 1,000 signatures, but it is representative of the great number of people who are becoming increasingly alarmed about the scale of what is happening. I draw the committee's attention to the map that I included; I think that Steve Farrell may have given members a copy of it. It demonstrates the scale of the problem in Moray and west Aberdeenshire. If all the applications go ahead, the number of turbines in Scotland will almost double. Scotland currently has approximately 267 turbines. I remind members that the circle that they can see on the map has a radius of 14 miles.

Developers are using fraudulent and divisive tactics to sell the concept of wind farms to local communities. I have evidence to support that claim. The Scottish Executive is also guilty of producing false figures and of ignoring scientific evidence and well-resourced engineering data.

I refer members to the report of the Royal Academy of Engineers. I provided an extract of that report with my submission, of which the clerk has a copy. Brian Wilson, the Minister of State for Industry, Energy and the Environment, commissioned the report, but he seems to have ignored it totally in his recent dissertations to the public. The report states:

"The Academy's engineering assessment is highly critical of the *Energy Review* published by the Cabinet Office Performance and Innovation Unit on 15 February."

On the target of 20 per cent from renewables by the year 2020, the report states:

"While this is a laudable claim it is over-optimistic and fails to address the fundamental problem with all renewable sources—they are intermittent."

The report continues:

"The substantial development of new randomly intermittent renewable wind and wave resources is not seen as a practical engineering solution ... Detailed engineering studies should be undertaken urgently before policy decisions relying on high levels of intermittent renewable generation are taken."

That is a brief summation of what is in that 50-page report.

Local planning authorities are pressured by the planning legislation that comes from the Scottish Executive. National planning policy guideline 6 and planning advice note 45 are the two definitive documents that local planning authorities use, which results in unsafe planning decisions by local councils. It is rather ironic that I cannot petition against those local council decisions.

Scotland produces 70 per cent more electricity than it uses. I could provide further figures, but I do not want to waste the valuable time that I have. Scotland meets by a long way the target set by the UK Government for renewable energy, which is 10 per cent by 2010. The Scottish Executive claims that 11 per cent of electricity comes from hydropower, but the real figure is 14.69 per cent. If one adds to that the 1 per cent that comes from wind farms, the total is 16 per cent.

Ross Finnie has suggested that Scotland should produce up to 18 per cent of electricity from renewable energy by the year 2010. To satisfy Mr Finnie's target, we could shut down Torness power station, which would allow us to bump up the figure for renewable energy to 18 per cent without building one more wind farm, but which would not affect Scotland's ability to supply itself with electricity and export electricity to England.

The same applies to the closure of Longannet, except that that would boost the figure for renewable energy to 19 per cent.

Apart from a few temporary construction jobs, no jobs are associated with wind farms. The largest wind farm in Europe is run by two people. The only people who benefit financially from wind farms are landowners and developers. The three companies that are involved in the six sites on the map that I have submitted are foreign based. The contract to build wind turbines at Drummuir, which Moray Council is considering, will go out to tender in Europe—that suggests that not much money will come either Scotland's or Moray's way.

Wind farms will have no effect on global levels of CO₂, particularly if one considers that every year we use 2 per cent more electricity. The 1,000 wind turbines in the UK satisfy around 0.5 per cent of our electricity needs. One does not have to be a mathematician to conclude that, to keep pace with the 2 per cent yearly increase, we would have to build around 4,000 wind turbines. Because wind is intermittent, power stations will be required as back-ups and will not be shut down.

The Deputy Convener: Please bring your remarks to a conclusion, Mr Graham.

Bob Graham: Okay. Wind farm applications are contrary to agenda 21, which states that the indigenous population has a right to have a say in what happens to their environment. As a result of planning legislation, local people have little or no input into the planning process. Decisions are made based on pressure from the Scottish Executive. I have demonstrated that there should be a moratorium on wind farm development until there is an effective national strategy for renewables and, more important, until there has been much more public consultation.

The Deputy Convener: Support for the petition has been received by e-mail from Michael Ryan, Mr and Mrs P Metcalfe, Marilyn Henderson, Graham Henderson and Helen Richardson. I remind members that we may not discuss the individual planning applications to which the petitioners have referred. We are to consider the more general issues that they raise.

Phil Gallie: My point may appear to be opposed to the petition, although I am sympathetic to the petitioners' views. Reference was made to the fact that Scotland generates 70 per cent more energy than it needs. However, at least 90 per cent of the production of our whisky industry is probably excess to Scotland's needs. That is not a bad thing in some respects.

Mr Graham, you have provided us with a drawing of a wind turbine, but you omitted to indicate how much such a turbine generates. Can you provide us with that information?

11:30

Bob Graham: Turbines from the current generation have a mean output of 2MW. However, because of their inefficiency and the random nature of the wind, no turbine has produced more than 27 per cent of its production capacity. That equates to just 0.25MW.

Phil Gallie: You live not far from Peterhead power station. Do you know the power station?

Bob Graham: Yes.

Phil Gallie: What is the combined output of the two units at Peterhead? How many wind generators would be required to produce that?

Bob Graham: You have picked the wrong example.

Phil Gallie: I will help you. The output of Peterhead power station is about 1,200MW, plus 1,320MW installed capacity. On your figures, that is equivalent to the output of almost all the wind farms that are currently installed in the UK.

Bob Graham: You are absolutely correct.

Phil Gallie: Were there many objections to placing a power station on that nice, compact site?

Bob Graham: I am not here to represent views on the compactness of the power station at Peterhead.

Phil Gallie: The issue is relevant to the evidence that you have given. Your submission shows a cluster of wind farms. It is one thing to generate electricity, but it is another to transmit it. Along with generators, power lines and transmission lines are required to take power away. Are wind farms being clustered to reduce transmission costs and the provision of unsightly transmission lines?

Bob Graham: Absolutely not. I am sure that the three developers who are involved in the projects do not consult one another. They target sites that are as close as possible to the national grid. One of the restrictions that Moray Council placed on the applications for Cairn Uish and Paul's Hill was that the cables should run underground, because of the distance between the turbines and the nearest connection to the national grid. At Drummuir, the developers are hoping for reasons of cost to put cables above ground. I do not know whether the planners will allow that.

Phil Gallie: A comment has been made about the Government's attitude towards wind farms. The Government encourages wind farms and subsidises them heavily. The provision of underground cables would demand even more subsidy. Have you any idea how much that subsidy would be?

Bob Graham: Brian Wilson has committed £1.6 billion to beefing up the grid system in Scotland. At a meeting of Highland Council on 15 November, he said that, in effect, he intended to turn Scotland into a wind farm for England. Scotland already has a surplus of electricity and has exceeded by a considerable margin the target that has been set. The sum of £1.6 billion is coming out of taxpayers' pockets.

Phil Gallie: Is that money to be used for transmission or to subsidise generation?

Bob Graham: It is to be used to beef up the grid system. I understand that there are only 400MW of spare capacity on the grid system. If the amount of electricity that is generated increases by more than 400MW, the grid system will collapse. The Government must rebuild the grid system, which will cost consumers £1.6 billion.

Phil Gallie: I do not quite understand the point, but I will let it go.

Dr Ewing: Petition PE564 says:

"There is no National Strategy for renewable energy".

I suggest that, in my long political life, there has never been a strategy for energy. That is the problem. We have gone crazily from one kind of energy to another. The coal industry was treated badly when London decided to go hell for leather for nuclear energy. That situation continues now. A big public reaction has been created because we do not know what to do with the waste, so renewable energy is the soft option to many people and better than nuclear energy. Denmark has done quite well out of renewable energy and, because Scotland is windier and has more violent seas than Denmark, many people have supported renewables. Mr Graham, you said that you support renewables. Which forms do you support?

Bob Graham: Sadly, no renewables are commercially available in a form that will provide a reasonable amount of electricity. Investment has not been made in other forms, such as wave power or biomass, which are still at the experimental stage. The hardware for wind turbines is available and will be provided by Europe, because we do not have the technology. The form has been chosen because that is all that there is. No other viable forms of renewable energy exist, which is why we are stuck with the problem of windmills.

Dr Ewing: The investment in the nuclear industry was colossally greater than any sum that you are talking about, yet Dounreay has not produced one bit of electricity yet and we know all the trouble that it has caused to many people. I do not know whether the cost would take us near to having a strategy, but you are right to say that no strategy exists and that some of the statistics

about the amount that can be achieved by such-and-such a year show great optimism. Will wave power be commercially viable?

Bob Graham: It is possible that wave power will eventually be commercially viable, but that is hypothesis. We are dealing with the realities. In Scotland, 140 sites are earmarked. Some are at the planning stage and some have been developed. I ask members to cast their minds back to the UK Government's decision to experiment with anthrax on Gruinard island. Anthrax was kept under control, but Scotland was targeted for that experiment. I relate the wind farm situation to that, except that the virus of wind farms is out of control. The developers are being allowed to apply piecemeal where and when they like; what they are doing is almost unrestricted.

Dr Ewing: Is your objection largely to the look of turbines? We have talked about sustainability. I could respond to your answer about wave power by saying, "Just a minute—with all new things, you sometimes have to spend a lot of money, as the oil industry did." What about the damage, if any, that windmills do? I have been to all the sites in Orkney and have spoken to all the people roundabout, who do not seem to mind the turbines and do not say that they are suffering, although they are quite near. Do you object to the look of the turbines or the fact that they are unsustainable? Will you narrow your argument?

Bob Graham: The turbines are a futile gesture. They do little or nothing to alter the greenhouse gas situation, so that argument can be pushed to one side—it is not an issue. Opinions about the look of the turbines are personal. I cannot stand the damn things, but that is not the position that I represent. One of Mr Wilson's favourite comments is that everybody in the anti-wind farm lobby is a NIMBY, which stands for "not in my back yard". Our back yard is Scotland, which is why we are all here. We are not just representing views on individual applications. We are here because we are concerned about the proliferation—that was difficult to say; I will put my teeth back in—of windmills.

I will describe my concern about Moray. Moray is in the economic doldrums. Fishing is in its death-throes and farming is in the doldrums. There is not much going for Moray other than its historical tourism and its whisky. The Moray economy is so sensitive that we cannot jeopardise it by allowing tourism to be affected. I think that the turnover of tourism in Scotland is £4 billion. If 25 per cent of tourists do not show up, we will lose £1 billion of our income.

John Farquhar Munro: I am not aware of the situation in Moray but I have read a lot about the recent suggestions on the development of wind farms in the Isle of Skye. It has been suggested

today that, before any such schemes go ahead, an environmental assessment should be conducted. I am sure that no one would argue strongly against that suggestion. However, the environmental impact assessment of any wind farm development, such as the one that has been mentioned in Skye, would be done on behalf of the planning department of the local authority.

Jeremy Carter (Skye Windfarm Action Group): Site-specific environmental impact assessments are an important part of the planning procedure. However, there is a problem: NPPG 5 and planning advice note 45—PAN 45—put such an emphasis on the development of renewable energy that renewable energy projects are regarded as being green from the start. While the environmental effects of a coal power station or a nuclear power station would be scrutinised carefully—

Dr Ewing: They are not scrutinised closely enough. There has been tragedy after tragedy.

Jeremy Carter: I agree, but my point is that the environmental impact of wind farms is not adequately scrutinised because they are perceived to be clean, green and sustainable.

Blanket bog is one of the biggest carbon stores in the northern temperate zone, but, because each council deals with applications for wind farms separately, we have no way of knowing how much blanket bog in Scotland will be destroyed by wind farms. Golden eagles do not respect local authority boundaries. How many golden eagles will be killed by the programme? A site-specific environmental impact assessment will tell us that; it will also tell us how many hectares of blanket bog will be destroyed in a particular area. However, there is no mechanism for measuring blanket bog destroyed in Argyll alongside that destroyed in Moray or elsewhere across Scotland.

John Farquhar Munro: Surely what you say about the number of golden eagles that would be injured or killed is an assumption. Has any calculation been done to produce an accurate assessment?

Jeremy Carter: We do not know about the first application for Skye because we have not seen the data for it, but the second application, which is for 14 turbines, predicts a damage to the local eagle population of between 1 and 20 per cent. Obviously, that figure is uncertain: the developer's estimate could mean one eagle every five years or one eagle a year. However, good evidence based on the experience of wind farms in the United States of America suggests that badly placed wind farms that are not subject to proper environmental scrutiny can be damaging to golden eagles.

John Farquhar Munro: I accept that you are here to speak to a petition about what is

happening in Skye and that Mr Graham is concerned about what is happening on the Scottish mainland. However, very few representations have been made to me on the subject—I speak as a representative of Skye. I would have thought that I would have heard from the Scottish Crofters Union, individual crofters or others who might be affected by the wind farm development, but I have not. That is why I am reasonably satisfied that the planning department took account of all the representations that it received when it approved the wind farm development last Friday.

The Deputy Convener: I ask members to stick to the general issue, rather than to refer to the specifics of a planning application.

Jeremy Carter: I respect the opinion that has been voiced, but the petition calls for a strategic environmental assessment. Agenda 21, the Aarhus convention and the new European Commission directive all say that development cannot be called sustainable unless a strategic environmental assessment has been conducted. That is what we want—we do not want to argue over particular cases; the cases that we highlighted are just examples.

John Farquhar Munro: I said at the outset that there would be no objections to your proposal for an environmental assessment. I am not objecting to that; I do not think that any reasonable person would.

The Deputy Convener: The question is whether the planning system is able to deal with the situation. That is the broader issue.

Jeremy Carter: We would question the assertion that the planning system is adequate, but I would say that, even if the system worked perfectly, it would be no substitute for strategic assessment.

11:45

The Deputy Convener: I thank members for their questions and the witnesses for their attendance and for presenting their case so articulately, for which we are grateful. It is now for members to consider what action they think it appropriate to take. We will keep the petitioners informed about any progress on or developments with their petitions. You are welcome to stay seated and listen to what members have to say. My colleagues get their turn now.

We will start with PE559. Does the committee agree to write to the Scottish Executive to seek its views on the general issues raised in the petition? In particular, we could request further details of the work that is being carried out on strategic environmental assessments. We could ask the

Executive to indicate whether Scotland's renewable energy programme is likely to be subject to a strategic environmental assessment and, if so, when that would be likely to happen. We could also the Executive to indicate when the outcomes of its recent consultation on the future of renewable energy are likely to be available. Do members also agree to write to the Scottish Renewables Forum, which represents the renewable energy industry in Scotland, to seek its comments on the issues raised in the petition? We could also pass a copy of the petition to the clerk to the Transport and the Environment Committee, for information only at this stage.

I direct members' attention to the recommendations on PE564. Do members agree that the general focus of the petition appears to be the development of a national strategy for wind farm developments and of guidance for planning applications for such developments? Does the committee agree that we should write to the Executive, seeking its views on the issues raised in the petition? We could ask the Executive to indicate whether it has any plans to develop a national strategy and guidance for wind farm developments.

We could also ask the Executive to comment on the petitioners' claims. They claim that electricity from wind farms costs double that from conventional sources; that subsidies for power generators for wind farm development are to be recovered from the consumer in the form of a levy; and that developers are submitting as many planning applications as possible prior to the adoption of the new electricity trading arrangement in Scotland, which is designed to curtail malpractice by electricity generators. They also claim that local government planning departments are not equipped to cope with what they argue is

"the 'industrialisation' of the Scottish Countryside"

but that planning departments are urged by the Executive to approve such applications; that wind farm developments pose a real threat to house prices and tourism and fail to generate long-term jobs or revenue for Scotland; and that the sustainability of wind power is uncertain, given the fact that the life expectancy of turbines is only 15 to 20 years.

The committee may wish to request comments from the Scottish Renewables Forum on the issues raised in the petition and to pass a copy of the petition to the clerk to the Transport and the Environment Committee, for information only.

Dr Ewing: You mentioned the petitioners' claim that electricity from wind farms costs double that from conventional sources. I was interested in that statistic. Could we seek clarification whether they include nuclear energy as a conventional source?

The Deputy Convener: We could certainly add your question to our letter.

Dr Ewing: If nuclear is conventional, the petitioners' claim is not true. I do not know whether they can come back on that point.

The Deputy Convener: Is that the question that you want to put in the letter?

Dr Ewing: I have to know what is meant by conventional before I can say whether I agree.

The Deputy Convener: That is a matter of interpretation. I am asking you whether you would like us to ask that question of the Executive.

Dr Ewing: The petitioners' claim is not true if they are applying the term conventional to nuclear energy.

Phil Gallie: The cost of a nuclear unit is now down to something like 2.3p, compared with something like 5p to 6p for a wind farm generated unit.

The Deputy Convener: I do not want to argue about the issue. I just want to know whether that is the question that Dr Ewing wants us to ask.

Dr Ewing: As long as my point is made: I do not agree that nuclear energy is a conventional source.

I am worried by the allegation—which might be true—that developers are submitting as many planning applications as possible. That allegation should be included in the letter. It is pretty insulting to say that local government planning departments are not equipped to cope. After all, we elect them, so we get the councillors that we deserve. If we do not like councillors—

The Deputy Convener: Those are points for the petitioners to make. It is not really—

Dr Ewing: We need to agree whether to make these points. I am saying that I agree with some points but not others. That is perfectly permissible. I agree with the point about the failure to generate long-term jobs or revenue. However, I do not agree that wind farm developments pose a real threat to house prices. I base that on evidence from Orkney.

The Deputy Convener: I accept that those are your views. However, the petitioners have given us their views, for which they are asking us to be a conduit to the Executive. Are you content that we ask those questions?

Dr Ewing: Yes, but I would like my comments to be added, as I am a member of the committee.

The Deputy Convener: We can also send a copy of the *Official Report*.

Dr Ewing: I do not necessarily accept that the points made in the petition are true.

The Deputy Convener: We will send a copy of the *Official Report*, which means that your views will be made clear.

Phil Gallie: I want to pick up one of the petitioners' concerns, which is that Jack McConnell has set a target of 18 per cent renewable energy over the next 10 years—I think he said that renewable energy should reach 40 per cent over the next 20 years. I would like to know how the pressure of those targets, applied as national targets, is reflected when councils determine the outcome of applications for wind farms. At the moment, wind farms are the only practical form of renewable generation other than nuclear, which is also renewable. The volume output means that it will not be possible to meet the targets that Jack McConnell has set. It would be worth while to take this opportunity to question him about that.

The Deputy Convener: We will take all those points on board and we will ensure that a copy of the *Official Report* goes to the Scottish Executive to make clear members' differing points of view. I can see that this is a controversial matter.

Dorothy-Grace Elder: Do you, and the petitioners, agree that we should replace "conventional" with the term "present sources", because we cannot participate in enshrining nuclear energy as a conventional source of energy?

The Deputy Convener: Are the petitioners happy to take that point on board? I do not have a problem with it.

Jeremy Carter: Certainly. We could change the phrase to "existing sources".

The Deputy Convener: Are you happy with that?

Dorothy-Grace Elder: That is fine.

The Deputy Convener: Good—consensus reigns.

Do members agree with the recommendations on both petitions?

Members indicated agreement.

The Deputy Convener: Do members also agree to link PE564 to PE559 and PE493, which are related?

Members indicated agreement.

The Deputy Convener: I thank the petitioners for their attendance this morning. We will keep you informed about the progress of your petitions and the outcomes. The clerk to the committee will contact you.

Scottish Law (Protection of Minors) (PE565)

The Deputy Convener: For PE565, I invite Jacqueline, Mark and Karen Shields to come to the desk. I welcome you to the committee this morning. We are always pleased to welcome young visitors in particular.

Your petition calls on the Scottish Parliament to take the necessary steps to provide a protective mechanism to ensure that the welfare concerns of minors are paramount in Scottish law. I invite Miss Jacqueline Shields to present her petition.

You have three minutes. After that, the committee will ask you questions. The members will then deliberate on how they would like to proceed with the petition.

Jacqueline Shields: My name is Jacqueline Shields. I am 12 years of age. I am here today with my brother and sister, who are helping me to present the petition.

I have been fighting for years to stay with my dad. While that has been happening, I have felt that wrong decisions have been made on my behalf. They have been made when I have had no counsel acting for me.

Jill Carrick, my mother's lawyer, has used the threat of sheriff officers and police to remove me from my father's against my free will on a number of occasions. She has wrongly advised my mother that that is the correct action to take, even though it has been extremely frightening, depressing and stressful for me. It has been a mentally abusive time for me.

I ran away numerous times in the past year because I felt unsafe while with my mother. Police officers have physically threatened to take me back. On one occasion, two male police officers took me away in a police car at night, which was extremely frightening for me. They gave me no time to get representation.

As I add all this up, it all points to the actions of Jill Carrick, my mother's lawyer. She advised my mother to call police and social workers and to have sheriff officers take me back to a place where I feel unsafe. Jill Carrick has stood up in court knowing that I wish to stay with my dad and made up all sorts of lies about why I should remain with my mother. Because of that lawyer's actions, I have had to stand up in court and give hurtful and upsetting reasons why I wish to stay with my dad. Even then, it was still granted that I should return to my mother's.

Jill Carrick has spoken in court as a witness to the horrible and distressing times that my mother and I have had. She has ruined the relationship between my mother and me forever. Those

arguments—not just wee silly ones, but emotionally disturbing ones—have occurred behind closed doors, where only my mother and I were present.

I have had my mother threatening on many occasions that she will speak to Jill and stop me seeing my dad, my brother and sister for good. That has been extremely frightening.

Jill Carrick has corruptly distorted facts to put me under extreme mental pressure, with the help of other professionals, who have provided false accounts of my family's circumstances.

I ask the Scottish Parliament to investigate why my views and wishes have been totally ignored, and why I have been separated for long periods of time from my father, my brother and my sister because of lies, deceit and corruption.

Tens of thousands of pounds in legal aid have been used to fund the emotional harm that has been done to me over the past seven years. I enclose a list of legal firms, which includes the Scottish Child Law Centre, which have refused to act for me. That has allowed the continued abuse of my rights by this lawyer's actions.

The Deputy Convener: Thank you. It is a bit unfortunate that a professional has been named in the committee. Wherever possible, we try to avoid that. I ask both members and witnesses not to name the individual professionals who have been involved, but to keep to the general issues. The committee has the responsibility of sticking to the general issues.

With that, I thank Jacqueline Shields. Members may now ask questions.

Phil Gallie: Have you heard of the Children (Scotland) Act 1995?

Jacqueline Shields: Could you repeat that?

Phil Gallie: Have you heard about the Children (Scotland) Act 1995? Let us just call it the children's act of the mid-1990s.

Jacqueline Shields: Yes.

Phil Gallie: I might be wrong, but that act states that the courts must take into account the opinions of children of eight years and over. When you have been involved in the legal process, what kind of contact have you had with the sheriffs who have been making the judgment? Have they taken you aside or into a separate room and found out what was on your mind?

Jacqueline Shields: No. When my mum and dad were there, I have said in court why I would like to stay with my dad, but I have not actually been taken into another room.

Phil Gallie: The sheriffs have tried to find out what was on your mind and they have still gone against your wishes.

Jacqueline Shields: Yes.

Phil Gallie: I am trying to make the point that the Children (Scotland) Act 1995 was meant to address the fact that youngsters' opinions should be registered and accepted by the courts. If this case is typical then it gives me some concern about the workings of the act.

12:00

Dorothy-Grace Elder: Jacqueline, thank you for a well-put presentation. I know that it is not easy. I would like to clarify one or two points. There are three members of your family here. Are all of you living with your mother or your father? How is it working?

Mark Shields: At the moment, I am a student at the University of Manchester Institute of Science and Technology. The situation is now worse, because my mum has custody of my sister. My dad is only supposed to have access from 11 until 7 on Saturdays.

Dorothy-Grace Elder: You are talking about your younger sister.

Mark Shields: Yes. I only get home at certain times of the year, when I am on holiday.

Dorothy-Grace Elder: Your mother has custody of your younger sister. Did she have custody of you two until you reached adulthood?

Mark Shields: No, and that is why the situation is so bad. I was of a similar age to my sister when my parents first separated. At that point I was allowed to express an opinion, so I said that I wanted to stay with my father. That is why I have to question why, when Jacqueline is now 12 years of age, she is not being allowed to express her opinion.

The Deputy Convener: I interrupt to ask you whether you are here to talk about the wider issue or just about your specific circumstances?

Mark Shields: I am just explaining the situation.

Dorothy-Grace Elder: I asked the question in order to see if their situation is related to a wider problem.

How old is your other sister?

Karen Shields: I am 23.

Dorothy-Grace Elder: How old were you at the separation?

Karen Shields: I was 16 and I have lived on my own.

Dorothy-Grace Elder: Did you live with your mother or father at first after the separation?

Karen Shields: I lived with my father.

Dorothy-Grace Elder: So all three of you chose to live with your father.

Karen Shields: He was living in the family home, so it seemed natural that we would choose to stay there.

Dorothy-Grace Elder: Jacqueline has to live with her mother—is that correct?

Karen Shields: Jacqueline lived with her father at first and my mother got custody and took Jacqueline to live in a women's aid refuge rather than letting her stay at home with her family.

Dorothy-Grace Elder: Did any legal or other so-called professional consult you and Mark about Jacqueline's situation?

Karen Shields: Not at that time.

Mark Shields: That happened later on after custody was awarded. It has been like a game of tennis—backwards and forwards. She used to be allowed a two-night stay over; then it was a one-night stay over.

When I was about 15, a social work report was done and I complained about it because I felt that it had misrepresented me. It said that I had failed to elucidate and elaborate on certain situations, when I had explained. If they felt that they needed any more information they should have asked me.

Dorothy-Grace Elder: Was the report in relation to Jacqueline?

Mark Shields: Yes.

Dorothy-Grace Elder: So you did get some say—with the social workers, for instance.

Mark Shields: Basically they were asking me about the situation at home to try and find out who was more suitable to take responsibility for Jacqueline. Their report missed out a lot of events that I told them about. When I complained to the social work department, I was told that because there were two social workers, my interpretation of the situation was wrong. The worst thing about it was that they said that because I was a child—I was a teenager at the time—my interpretation was wrong. If they responded like that when they were questioning me at age 15, what are the chances of their properly reporting my sister, who is much younger?

Dr Ewing: Are you trying to raise the issue that a child of over 12 years of age should have the right to their own lawyer? Is that one of the things that you are saying?

Jacqueline Shields: Yes. I have tried lawyers—I have a list here—but none would act for me or get back to me about the matter. I have waited for a month or so without receiving a reply. I phoned a couple of lawyers, but they said that they could not become involved.

Dr Ewing: Currently, you do not legally have the right to your own lawyer. Are you asking for the law to be changed to give you that right?

Mark Shields: Basically, she wants the right to choose where to live. She can achieve that only by legal means, as any question that arises about where she can live goes back to the court. I do not see how she can attack the problem in any way other than by legal means through a lawyer.

Dr Ewing: The courts have a duty in respect of a child's welfare and well-being. That is the law, so the law has not been disobeyed. The problem is that Jacqueline is one of many people in custody who is not happy with that custody. Currently, the law allows the court to make a judgment.

The petition refers to the Scottish Child Law Centre. Have you been there, Jacqueline?

Jacqueline Shields: I contacted it for advice.

Dr Ewing: Did it help you in any way?

Jacqueline Shields: Yes. It gave me telephone numbers, which I phoned. However, the lawyers whom I phoned either told me that they could not act for me or did not get back to me.

Dr Ewing: So the centre advised you to go to a lawyer.

Jacqueline Shields: Yes.

The Deputy Convener: We are considering the more general issue of access rights. To pick up on what Dr Ewing said, legal representation exists in specific circumstances only, in respect of children's hearings. Would you like that representation to be extended? Is that the more general issue that should be addressed?

Jacqueline Shields: I would like to have representation that I could trust and would like to know that my representation would go to court and say where I want to stay.

Dorothy-Grace Elder: I have been taking notes. Am I right to assume that you blame the legal process that you have gone through and the actions of lawyers for worsening your relationship with your mother, for instance, and that that relationship might even be better if you had not been subjected to things that you say the legal side did? Is that assumption fair or unfair?

Jacqueline Shields: I think that my mother's lawyer, Jill, has affected matters. Even when I said that I wanted to stay with my dad and ran away, my mum received advice from her about what to do.

Dorothy-Grace Elder: If you and your mother only talked about things without intervention, do you think that things might be better?

The Deputy Convener: We do not want to put the petitioner in a difficult position. I sense that she feels uncomfortable, so we will leave that question, although she can answer it if she wants to.

Phil Gallie: I want to return to what I said about the 1995 act. I was wrong to say that a child's opinion should be registered from the age of eight—it appears that it should be taken into consideration from the age of 12. Jacqueline, you are now 12, so perhaps things will improve from now on. However, problems arose for you from the age of seven or eight. Do you think that, when you were eight, you were in a position to make it clear—to whoever asked—what you wanted to do?

Jacqueline Shields: No, I do not think so.

Mark Shields: At the time of the separation, one problem that arose was that Jacqueline wanted to see both parents—as I did—but people did not look at the whole picture and take into account the opinions of the family about our mum's mental state and how fit she is to be a parent.

They said, "Okay, Jacqueline wants to see both parents, so we'll give custody to her mother", even though, under the circumstances, both parents should have had equal access. Parental responsibility for Jacqueline's welfare should have been with my father. That is the main problem. None of the family has direct contact with my mum; even if I come up and visit from university, my sister and I cannot see each other whenever we want. My mum is using her control to prevent Jacqueline from having fair access to all the family, which is something that she deserves.

Karen Shields: My mother is using the legal process to do that. When families split up, there is a lot of emotional tug-of-war between parents. The court mediates that situation in the child's best interests, but only for a short term. What usually happens is that couples that have split up will eventually agree their own arrangements as the emotional tension eases. However, the situation with my mother has worsened and, instead of her lawyer advising her to address Jacqueline's feelings, she has continued to allow my mum to stand in court—

The Deputy Convener: I am sorry to interrupt you, but I must point out that we want to examine the more general issues that are contained in the petition. We do not want to get involved in cases on which courts have already ruled. We are asking you for evidence on wider issues. Your useful evidence has focused attention on some of the more important general issues, and I think that members might have gathered enough information to consider those. Unless you have anything more to say on the general issues, I thank you for your evidence.

I remind members that the Parliament is unable to investigate the particular circumstances around the petitioner's case. However, should the petitioner's evidence appear to suggest that the current system contains general inadequacies, the committee might wish to agree to write to the Scottish Executive, seeking its views in relation to the issues raised in the petition, with a particular request for clarification of the existing rights of children to legal representation under the European convention on human rights and the Children (Scotland) Act 1995 in the types of cases highlighted by the petitioner. We might also ask for an indication whether the recent Court of Session ruling on article 6 of the ECHR in certain cases before children's panels has any implications for the rights of children in parental responsibility cases. We might also ask for confirmation of how the views of children up to and beyond the age of 12 are currently taken into account when major decisions about parental responsibility are taken, together with an indication as to what constitutes a "major decision". Finally, we might ask for details of the Executive's position on the adequacy of the current measures aimed at protecting the welfare rights of children in parental responsibility cases, together with an indication whether any improvements in the current system are planned.

The committee might also wish to seek comments about the adequacy of the current system from the Scottish Child Law Centre, the Scottish Alliance for Children's Rights and the cross-party group on children.

Dr Ewing: I agree with all those actions. Indeed, I was going to suggest the last point myself.

The third course of action suggests that we ask the Executive to confirm how the views of children up to and beyond the age of 12 are currently taken into account. However, it seems to me that the petition is asking that children have a right of review at their request when they turn 12. Can we make that clearer in our letter?

The Deputy Convener: Certainly.

Phil Gallie: I agree with the suggested courses of action. Indeed, Dr Ewing's point is well made.

My only question was perhaps undercut by a comment from Jacqueline Shields. During the passage of the Children (Scotland) Act 1995, I wondered whether it was correct to set the age limit at 12, and whether children should be able to make up their minds a bit earlier than that. However, one has to acknowledge the emotional upset of such a time. Perhaps we should ask the Executive whether it would be reasonable to lower the age limit just a little bit.

The Deputy Convener: That is fair enough. We can accept that.

John Farquhar Munro: It is alarming that we have heard two similar complaints today about professional misconduct, whether that is about the Law Society of Scotland or some other organisation. That seems to be a regular presentation, and we should take it more seriously and ask questions, rather than just dismissing it.

The Deputy Convener: The Justice 1 Committee has conducted an inquiry into misconduct and the legal profession, and it is in the process of producing a report on that. We could point you to that.

12:15

John Farquhar Munro: We have heard today about problems that go wider than the legal profession.

The Deputy Convener: I thank the petitioners. It is always a harrowing experience for anyone to come before the Public Petitions Committee, but particularly for younger people. You have done very well, Jacqueline, and I thank you and your brother and sister for appearing today. We will report back to you so that you will know exactly what is happening.

Complementary Medicine (PE571)

The Deputy Convener: We turn now to our next petition. We do not have a speaker to it, but we welcome to the committee Sylvia Jackson, who will speak in support of the petition. The petition calls for the Scottish Parliament to introduce legislation to require health boards in Scotland to implement the recommendations of the 1996 report on complementary medicine in the national health service by the national medical advisory committee of the Scottish Office department of health.

The petition is prompted by the petitioner's belief that a statutory obligation should be placed on local health boards to integrate complementary alternative medicine within the NHS. She also believes that health professionals should receive specified training and that further research should be conducted on the safety and efficacy of complementary alternative medicine.

I will not read out the whole briefing, as members have it in front of them. I invite Sylvia Jackson to say a few words in support of the petition.

Dr Sylvia Jackson (Stirling) (Lab): Thank you, convener. I am here to represent one of my constituents, Ethne Brown, who unfortunately cannot appear. You outlined what the petition is about, and committee members may have explanatory notes. I will go through the main points.

As the petition says, the Scottish Executive health department still refers to the report from November 1996, which is called "Complementary Medicine and the NHS"—it was produced by the national medical advisory committee of the Scottish Office department of health. It includes guidelines for health boards on making purchasing arrangements for the provision of acupuncture, homeopathy and other forms of complementary alternative medicine—CAM for short.

The crux of the matter is that the report does not require health boards to purchase particular therapies. That remains at their discretion. The report was also designed to promote debate on the integration of complementary medicine into the NHS in Scotland. The petition is basically saying that we should get on with that debate and move the agenda on.

Several recommendations in the report were directed particularly at health boards. First, there should be an exploration of the costs and benefits of integrating complementary and conventional medicine. Secondly, access to complementary medicine on the NHS in Scotland should be available to all who need it. Thirdly, audit and evaluation procedures should be developed for complementary approaches. Fourthly, the chief scientific officer should look sympathetically at applications for research into data collection, which seems to be missing as well. Finally, the directorate of primary care should commission a multicentre study to pool experiences and knowledge on how to make best use of money for the purchase of complementary therapies. There was also a raft of recommendations for educational institutions, which would obviously be involved in any research.

The report claims that the failure to integrate complementary approaches with conventional treatment could lead to a fragmentation of patient care, and highlights the fact that people will have to go outwith the NHS system and that payment will be involved. We need to consider how to make complementary medicine available to all.

Late in 2000, the House of Lords select Science and Technology Committee published its report on the increasing practice and use of complementary medicine in the UK, where an average of 20 per cent of people now use complementary medicine. The report advocated that education on complementary medicine within the education programmes of nursing and midwifery should be improved, standardised and accredited by a single regulatory body. The report also stressed the importance of conventional health care providers becoming familiar with the various therapies.

In Wales, the National Assembly has funded research that aims to identify the rationale behind the use and the efficacy of complementary

medicine for people with cancer. Scotland, therefore, is seen as being somewhat lethargic in integrating and developing complementary medicine within the NHS. The effective use of complementary therapies requires professional management, but there is no obligation on health boards to provide that. That is the thrust of my constituent's petition. I welcome questions.

The Deputy Convener: We are grateful to you. We have received two e-mails. One was sent on behalf of the chief executive of the Prince of Wales's Foundation for Integrated Health, giving the foundation's full support for the petition lodged by Mrs Ethne Brown.

We also have an e-mail of support for the petition from Dr Cornelia Featherstone, a general practitioner and research fellow at the University of Aberdeen, in which she highlights the benefits of complementary alternative medicine for musculoskeletal problems, reproductive health, mental health and chronic disease. She raises concerns about the lack of comprehensive and equitable provision of complementary alternative medical services in Scotland, and the absence of constructive policies that would provide clarity on the matter, as well as ensure the safety of NHS professionals and the public.

Members are invited to consider whether we should write to the Scottish Executive seeking its comments on the issues raised in the petition, with a particular request for clarification of the Executive's position on complementary alternative medicine in the NHS in Scotland, together with an indication as to whether it has any plans to introduce a statutory obligation on health boards of the nature that the petitioner proposes.

We may also seek comments on claims that the absence of a constructive policy on the matter has led to a lack of comprehensive and equitable provision of complementary medicine services in Scotland; the Executive's views on the merits of providing specified training on complementary alternative medicine to health professionals; and an indication as to whether the Executive plans to conduct any further research on the safety and efficacy of complementary alternative medicine, given the extensive work that currently is being undertaken in other areas of the United Kingdom.

Members may also wish to consider writing to the British Medical Association, which represents 80 per cent of practising doctors in the United Kingdom, seeking its views on the issues raised in the petition. Do members have any other suggestions?

Dr Ewing: I once hosted a meeting of CAM practitioners, at which Helen Eadie was an active participant. There is a big access problem and a big research problem. One of the problems is

whether CAM practitioners are also recognised as practitioners by the official body that we recognise, which is the BMA. We were surprised at how many of the CAM practitioners who came to the meeting that I held were fully qualified practitioners. It may be that there is not the problem that we think there is.

I would be interested to hear the BMA's views. Do we know whether the poverty trap prevents people from seeking advice on alternative medicine? People have no problem accessing alternative or complementary medicine practitioners if they pay.

The Deputy Convener: We could ask the Scottish Executive whether it has a view on that issue. I support wholeheartedly what Winnie Ewing has said. I was present at the briefing that has been mentioned, for which the room was packed. I have a keen interest in this topic. I am 120 per cent behind the petition and wish it well.

Dr Jackson: The issue that Winnie Ewing has raised may be important. In preparation for the 1996 report, a survey was carried out to determine the current uptake of complementary therapies within the framework of the NHS. It was found that many health boards were purchasing complementary medicine through what were called hidden contracts. Interventions were being carried out in pain clinics, physiotherapy departments, health centres and hospices without that being acknowledged explicitly. Given that complementary treatment is being provided, we must ask why it is not integrated into the NHS. That would avoid the fragmentation that currently exists. However, Winnie Ewing is right to ask whether people on low incomes are prevented from seeking complementary therapies.

Helen Eadie: We will include that question in our letter to the Executive.

Dorothy-Grace Elder: Do we intend to write to the chief medical officer as well?

The Deputy Convener: It has not been suggested that we do that, but there is no reason for us not to.

Dorothy-Grace Elder: The chief medical officer advises the minister.

The Deputy Convener: If we write to the Scottish Executive, I presume that the chief medical officer will reply.

Dorothy-Grace Elder: We do not know that. The minister's assistant may write the letter.

The Deputy Convener: We can address our queries specifically to the chief medical officer, if members would like us to.

Phil Gallie: What is the problem? Malcolm Chisholm has confirmed that it is up to GPs and

hospital clinicians to determine whether someone should receive alternative treatment. GPs and hospital clinicians remain responsible for the overall health of individuals, but they can offer alternative or complementary therapies whenever they regard those as appropriate.

The Deputy Convener: We can address our letter specifically to the chief medical officer, as Dorothy-Grace Elder requested, or we can address it to the minister.

Dorothy-Grace Elder: I suggest that we write to both of them.

The Deputy Convener: In effect, we are writing to the same person. If the letter is sent to the minister, the chief medical officer will answer it. I ask members for guidance on what they would like me to do. We know that the minister supports the provision of complementary alternative therapies. We need to ask why health boards are not pursuing Government policy. Perhaps we should ask health boards why they are failing to do that. However, it is for the minister to indicate why health boards are not following a policy that the Executive has articulated clearly.

Phil Gallie: I return to the comments that Malcolm Chisholm has made. He has said that health boards can provide complementary alternative therapies, but he places the onus for seeking them on GPs and hospital clinicians. That directs us towards the BMA. What are its members doing? What attitude do they take towards complementary alternative therapies? If they already have the power to refer patients to alternative practitioners, why are they not using it? Are health boards imposing restrictions?

The Deputy Convener: I suspect that health boards are imposing restrictions.

Dr Jackson: I was slow to reply to Phil Gallie because I am in a difficult position. As parliamentary aide to Malcolm Chisholm, I must be careful about what I say in the light of the ministerial code. That is why I was careful to make it clear that I am representing my constituent.

My constituent would have said that the 1996 report is regarded as very important, but that we do not appear to have moved on from that. The report stated that we should consider taking certain specific steps. The aim was to avoid a fragmentation of patient care, to ensure more integrated provision and to address the issue that Winnie Ewing has raised. There seems to be a lack of research in this area, which is worrying. We need to consider the status of complementary alternative medicine and how we may integrate that fully into the national health service in Scotland.

12:30

The Deputy Convener: I am trying to sense what members want. All your questions are covered by the suggested action in the report. However, the committee can make clear to the Executive specific points to clarify the policy and ensure that it is being implemented. Therefore, I assume that the committee is happy to progress on that.

Phil Gallie: I suspect that there might be a saving. What is the financial effect?

The Deputy Convener: That is a good question. The financial effect is probably the nub of the argument for the health boards. Members can refer to the report and ensure that we pick up on the various points and highlight them for the minister. It is a vital area, on which the committee must work, and, as an MSP, I will give as much support as I can. Are members content with that approach?

Members indicated agreement.

Current Petitions

Smoking in Public Places (PE503)

The Deputy Convener: We move to consider PE503, which is a proposal to ban smoking in public places. Members will see from their papers that the committee received responses from the majority of those contacted. The only person who did not respond is Kenny Gibson. Members will remember that the petition was brought to the committee by a group of pupils as part of an educational exercise. The committee should perhaps consider asking them to comment on the responses.

The position of the UK Government and the Executive, which is unlikely to change in the near future, is that an outright ban on smoking in public places cannot be justified. They are content to pursue the initiatives that have been introduced, through a voluntary partnership with the hospitality industry and others, to improve choice for smokers and non-smokers. Those initiatives have met with some success and are to be developed further.

As members know, pupils from Firrhill High School submitted the petition as part of a project to produce an educational video for the Parliament. It may, therefore, be worth while asking those pupils to comment on the main points raised in the responses from the Executive and the hospitality sector, which favoured a voluntary approach that would balance the rights of smokers with non-smokers' rights to clean air. As well as providing useful feedback for the committee, the pupils' comments would extend what has been a worthwhile educational exercise.

The committee could also consider whether further action should be taken on the petition when the pupils' comments have been received. I am interested in the progress of the public information campaign that was mentioned in Brian Adam's letter and promised by Susan Deacon. When we see that as many as 13,000 people a year lose their lives, we have an absolute right and duty to be concerned about the impact of smoking and passive smoking.

Dr Ewing: I do not think that Kenny Gibson thought that there was much point in him commenting on the petition when he has proposed a bill to ban smoking in all public places. He has put his position on the line by lodging the bill. There is no point in him pussyfooting around the issue when he does not agree with a voluntary system.

I have a point to make about the suggested action. It says at the end of the first paragraph that current initiatives have met with some success to date and are to be developed further. Do we have any idea—perhaps from VisitScotland—what

percentage of restaurants and hotels are implementing the voluntary code? VisitScotland has given us some information about that.

The Deputy Convener: The report says that VisitScotland has responded with the view that a ban on smoking in all public places seems rather draconian. It suggests that the public appear to welcome the fact that many bars and restaurants provide customers with a choice of smoking or non-smoking areas.

Dr Ewing: That is quite ridiculous because the air from the smoking bit circulates all around the restaurant. It is a pointless exercise.

The Deputy Convener: I have a personal view on that, but we are talking about the schoolchildren.

Dr Ewing: I agree with the action that you are suggesting.

Phil Gallie: I have a point to make about the responses. The voluntary approach has created a situation where 1,300 businesses in Scotland have complied to date. That was against a target of 1,100. The voluntary approach seems to be working very well indeed. Perhaps when the Executive thinks about regulation and targets, it could take a lesson from that voluntary approach. Perhaps we should pass that comment back to Kenny Gibson and draw his attention to the fact that the voluntary approach is working reasonably well. Apart from that, I am all for passing the petition back to the kids from Firrhill.

The Deputy Convener: I will clarify. We will write to the children about the responses that we have had and about our proposed action. We will also write to the Executive about the public information campaign.

Phil Gallie: Will you write to Kenny Gibson to point out that the voluntary approach has done pretty well? I am putting that forward as a proposal; you are not going to drop it under the table.

The Deputy Convener: You are just being mischievous.

Phil Gallie: No, I would never be mischievous. That is a serious proposal.

Dr Ewing: It is not right to ask the opinion of someone who has proposed a bill to ban it.

Dorothy-Grace Elder: I do not understand why Kenny Gibson did not respond to letters from the committee because the petition was from children and they deserve the respect of a response. Mr Gibson failed to respond to a request for comments on the petition, despite several reminders. Even if he lodged a bill, why did he not respond to the committee? Has he lost interest completely because we are hurtling towards an

election and he might lose votes from people who go to pubs? I am serious. People seem to change after getting a bit of publicity over some outrageous move.

The children should be congratulated for their earnest efforts in bringing the petition to us in the first place. It seems that the restrictions are working and that many organisations are putting a massive amount of money into ventilation. There are some quite learned submissions from the industry that ventilation is different from mere air purification.

The children have pulled together a lot of facts and I congratulate them on that. I did not realise that we have moved as far forwards as we have until I read the facts that have been generated because those young people approached the committee.

The Deputy Convener: The petition has been helpful, especially as the young people have focused on this topic. It highlights that persuasion, education and encouraging people for their own health and for the sake of others' health is very helpful. We will certainly take the actions that we have agreed earlier. We will also compliment the young people on their initiative. We hope we will see more young people taking an interest in the petitions process.

Phil Gallie: Do those actions include a letter to Kenny Gibson pointing out the success of the voluntary approach in meeting its targets?

The Deputy Convener: If that is your wish, we will make sure that we copy the responses to him.

Dorothy-Grace Elder: We should ask him why he has ignored the youngsters.

The Deputy Convener: We can ask him why he failed to respond to the committee.

Post Office Services (PE513 and PE542)

The Deputy Convener: We move on to the next two petitions, which are PE513 and PE542. PE513 is from Phil Gallie and concerns the future of rural sub-post offices.

I hope that Phil Gallie is not going to claim that he is single-handedly responsible for yesterday's major Government announcement of £450 million to address that serious problem. I know that £60 million of that money will come directly to Scotland to prop up urban and rural post offices. Those in the rural areas in Scotland who ran the campaign on the issue must be pleased with that piece of news.

The Government's announcement goes practically all the way to satisfying the petitioners. It has been a major boost. Shall we simply send a letter to the petitioners to say well done and ask that they agree that we close the petition?

Phil Gallie: I would not claim sole responsibility. Every member of the committee and others backed that petition. It is not a case of claiming anything. However, there is unfinished business on the universal postal service. The Postal Services Commission—Postcomm—is pursuing proposals that will be extremely damaging to that service. It is doing that ahead of a European requirement and out of step with the rest of Europe. We should not let that go. I would like the committee to write to Postcomm and register our concerns on the matter.

The Deputy Convener: I remind members that the matter is reserved. Members should also note that, last week or the week before last, I lodged a motion about the general agreement on trade in services. GATS relates not only to postal liberalisation throughout the European Union, but to our health services, energy and all sorts of issues, but it too is a reserved matter.

A Department of Trade and Industry consultation paper on GATS is out at the moment. It is up to individual members to respond to the paper. We must be mindful of the fact that we must go through the procedures for working with Westminster. My recollection is that the deadline for responses to the consultation is the beginning of January 2003. GATS affects a whole range of public services in Scotland. Members have the full arguments for and against extended liberalisation in the DTI report. It is worth while reading those arguments.

Dr Ewing: I am already in correspondence about exceptions to the universal postage service in the Highlands and Islands. We know that there will be many. Postcomm has indicated that, but refuses at this stage to say what they will be. I imagine that the Highlands and Islands will be particularly blighted because of their geography.

Although the matter is reserved, the second paragraph of the suggested action talks about the Scottish national rural partnership's report "Services in Rural Scotland", so we have a role. I am very concerned that Postcomm is treating proposed exceptions as a total secret at the moment. As members who represent areas, we are entitled to an answer from Postcomm. According to that second paragraph, we seem to have the right to have an answer.

The Deputy Convener: I will clarify that. I have done a fair amount of work on the topic. You say that the exceptions are a total secret. My understanding is that they are not a total secret in the context of the United Kingdom Government. The matter is being discussed and negotiated at European Parliament level. Certain members of the particular committee there have been informed of what the exceptions will be. The exceptions have not yet been made public. That is largely because—

Dr Ewing: I am sorry: I am not with you. Who has been informed?

The Deputy Convener: The European Parliament committee members. It is another—

Dr Ewing: There are no secret committees in the European Parliament.

The Deputy Convener: I am not talking about any secret committees; I am talking about a report that is a private document at this time. The reason for that is largely connected with on-going negotiations at the level of the World Trade Organisation. It is not a matter that is directly for the Scottish Parliament, although we can feed into the process through the DTI.

The European Committee of the Scottish Parliament has already produced a report on the liberalisation of postal services, which is available through the committee clerk or via the Scottish Parliament website. The issue is not new to us here in Scotland. It was addressed by the European Committee when Hugh Henry was its convener. It was among the first pieces of work that that committee was engaged in when I joined it. There is a vast amount of background and research work on the issue.

Let us return to the key issues. We should write to the petitioners behind PE513 and PE542 and ask them whether they are content with the proposals that the Government has put forward.

12:45

Dr Ewing: I am not content.

The Deputy Convener: We should find out whether the petitioners want us to make any further representations on the matter. You are saying that you want to make further representations on it. However, I think that it is appropriate for us to go through the DTI and Westminster, rather than this Parliament.

Dr Ewing: Some of us have more confidence in the Westminster process than others do. If it is true that members of the European Parliament have a document before them marked "Confidential", which contains a list of exceptions, I find that quite incredible. I never, in all my years at various European parliamentary committees, had confidential documents that I could not disclose to other people.

The Deputy Convener: Winnie, I am—

Dr Ewing: I will be approaching MEPs known to me to get to the bottom of this.

The Deputy Convener: I am glad that individual members of the committee will be pursuing this in the way that they feel appropriate, and that may be through members of the European Parliament.

If members have concerns, they can also be addressed through the DTI—this is a reserved matter.

Dr Ewing: That is a waste of time.

Phil Gallie: I have already prepared a submission to the DTI's consultation, but the issue has been brought before the Scottish Parliament's Public Petitions Committee, which is pretty unanimous on its concerns over the way in which Postcomm is going in this regard. I would have thought that it would be possible—reserved matter or not—for the Public Petitions Committee to submit its concerns in response to the DTI consultation. If we do that, I will be relatively satisfied.

The Deputy Convener: I am very happy for us to do that. I do not see a problem with that. I was very anxious, however, that we do that through the processes that we have agreed with our colleagues at Westminster. I, too, will be making my own individual submission, because the matter should be of concern to every MSP in Scotland.

We can submit our concerns to the DTI, as Phil Gallie suggests, after the meeting at which we discuss the response from the DTI on the issues that have been raised. We will go ahead and make our representations at that point.

Phil Gallie: I am happy with that if other members are.

Scottish Criminal Record Office (PE544)

The Deputy Convener: Let us proceed to the last current petition before us. It relates to a review of the Scottish Criminal Record Office. The petition called 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.

Members will wish to note that an e-mail has been received from Mr T Milligan, a copy of which is attached to members' papers. He claims to have been an inspector with the Scottish Criminal Record Office fingerprint bureau from 1982 until his retirement in June 2000. He refutes the claims that have been made in the petition, and calls for it to be rejected. He provides a comprehensive explanation of his view that expert fingerprint evidence is a professional opinion, and that a review of that area of the Scottish Criminal Record Office's work has already been undertaken.

We have received a brief response from the Scottish Executive, in which it indicates that it does not want to risk being held in contempt of court by providing its full comments on the issues that are raised in the petition, as they are so closely linked to the case of Shirley McKie. The

Executive points out that a review of the fingerprint bureau was carried out following Ms McKie's acquittal on a charge of perjury in May 1999. As a result, several changes, some involving additional funding, have been made or are under consideration. Those include a change in the standard used for identification to a non-numeric standard, as recommended by Her Majesty's chief inspector of constabulary.

Members may recall that, at the committee's meeting on 8 October, Winnie Ewing suggested that it may be possible for a group or individuals to restrict debate in the Parliament on any issue by raising a related court action, thus prompting the application of the sub judice rule. The committee agreed to seek further advice from the Parliament's legal team on that issue.

First, the advice received indicates that although it is technically possible that someone could deliberately restrict a debate by raising a court action, the chances of that happening are highly unlikely. Proceedings do not become active for the purposes of the sub judice rule by someone simply raising a court action. The Contempt of Court Act 1981 provides that, in a civil case, proceedings become active when the record is closed. That does not usually take place until some months after proceedings have been served—sometimes very much longer—and involves the defender lodging defences, and adjustments being lodged by both sides to the action. Therefore, if someone wanted to restrict debate, they would have to plan several months, or even years, ahead.

Secondly, matters do not remain active indefinitely. They usually cease to be active when the courts have disposed of the case. Therefore, it is only for a very specific time that any debate would be restricted. As the Presiding Officer explained to the Parliament in relation to the Shirley McKie case, it is open to the Parliament to debate the matter once the courts have disposed of the case.

The third point to note is that matters that are sub judice may be referred to in proceedings if the Presiding Officer has given permission to do so, under standing order 7.5.1. Therefore, if it was suspected that someone had raised an action for the purposes of preventing debate, it is open to the Presiding Officer to allow discussion of the matter if he so chooses.

As suggested previously, 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 investigate properly the issues raised without referring to the case. Although the Executive has been unable to comment fully on the issues raised in the petition for legal reasons, there appears to be a clear case for ultimately referring it to either the Justice 1

Committee or the Justice 2 Committee for further consideration. However, it is recommended that this committee should agree to defer such action until the civil action in the courts has been concluded, for the following reasons.

First, it would be particularly difficult to consider fully the issues raised in the petition if strict parameters as to what members could or could not say were enforced, and the risk of a breach of the sub judice rule would remain. Secondly, it is questionable, given the limited time available before the election, that a subject committee would have the time to conduct a detailed inquiry of the nature that the petition would appear to merit. Thirdly, it would be beneficial if any further inquiry conducted by the Parliament could refer to the McKie case and discuss the mistakes that were made. That would allow an informed debate as to how those mistakes could be prevented from occurring again in the future.

Ultimately, we would expect that the petition would go to either the Justice 1 Committee or the Justice 2 Committee, but that is the advice that this committee has been given.

Dr Ewing: I declare an interest as a member, albeit non-practising, of the Law Society of Scotland.

I agree with most of the advice on suggested action. I do not think that it is very likely that anyone would raise an action to be litigious, although, in my experience, that has happened quite a bit. McKie is quite genuine in her civil action, for her own purposes. I do not know the woman, but that is my impression.

I take issue with many points in the paper. The time worries me, because I do not agree with what is normal in an action and what is meant by "active" and "passive". I take it that the moment of truth is when the record is closed and defences are sub judice. I accept that point. However, I do not agree that that happens as quickly as suggested in the paper. I have been a litigant only once, and it was ghastly. I had to sue the *Sunday Mail*, which I did successfully. It took 18 months—a very long time before the record was closed; yet I had what was regarded as a cast-iron case and won.

Until now, fingerprint evidence has been regarded as virtually unanswerable. The case relates to the authenticity of that evidence—Mr Milligan would agree with that, because he said that fingerprint evidence was opinion. I have never heard that before and I admire Mr Milligan for saying it, because if fingerprint evidence is opinion, it is challengeable, and it had never really been challengeable until the case that we are discussing. Now, many criminal cases will take place in which doubt will hang over the authenticity

of fingerprint evidence, and that will happen for a long time—it could be 18 months or more. Is that good?

The Deputy Convener: Nothing that you say is wrong. You agreed that when the record is closed, the matter is sub judice. You say that a further inquiry should be conducted and we agree. The question is about timing, over which we have no control. We agree with our legal advice. We can do something about some matters but not others.

Dr Ewing: Will we do nothing for all the criminal cases that will take place?

The Deputy Convener: That is a matter for the courts to recognise.

Dr Ewing: The court has not said what you have said. The piece of paper that I am holding does not say what the court said.

The Deputy Convener: We are only a few weeks from Christmas. When we return at the beginning of January, that will be the realistic time for the Justice 1 or Justice 2 Committee to progress the issue.

Dr Ewing: I know that. I agree with you.

The Deputy Convener: We are at the mercy of the advice that we have received, no matter what the merits or otherwise of the arguments are.

Dr Ewing: I would like it to be minuted that, now that the authenticity of fingerprint evidence is in doubt—as Mr Milligan agreed—I am concerned about the time lapse before an inquiry into fingerprint evidence is held. I have given examples of other countries that have different points of reference for fingerprint evidence, which relate to the number of markers and other matters. We could have an inquiry without the Justice 1 or Justice 2 Committee, if the Crown Office agreed to do it. The inquiry would not be against that body; it would be in its interest.

The Deputy Convener: The Justice 1 or Justice 2 Committee will take on board those issues.

Dr Ewing: May I have my objection minuted?

The Deputy Convener: Yes. I am sure that that is not a problem. Any member can have anything raised.

Dorothy-Grace Elder: I second Dr Ewing's objection. I am sorry that we are giving you a rough time, convener, when you have been so nice to us all. I am alarmed that many people are in jail because of someone's opinion. Fingerprinting has been called an art form, not a science, but we have all come to believe in it over the decades. The situation is outstandingly alarming for the justice system. We must speed up a proper inquiry.

The Deputy Convener: Do we agree to the recommendations that have been suggested?

Dorothy-Grace Elder: We accept that we do not have time ourselves.

The Deputy Convener: The qualifications that Dr Ewing and Dorothy-Grace Elder wanted will be minuted. We will agree to the recommendations and the suggested action.

Organic Waste Disposal (PE327)

The Deputy Convener: Petition PE327 is from the Blairingone and Saline Action Group and is on the practice of spreading sewage sludge and other non-agriculturally derived waste on land in Scotland. We discussed the issue briefly at our last meeting, when members were informed that George Reid had written to suggest that Dorothy-Grace Elder should conduct an inquiry into the health aspects of the matter, as the Health and Community Care Committee cannot do so.

Members will recall that Dorothy-Grace Elder agreed to consider whether an inquiry was needed, as the Executive has acknowledged that the practice of sludge spreading should be better regulated and proposed that strict biological standards should be introduced. Dorothy-Grace Elder's view is that she should conduct a quick inquiry and report to the committee on the petition's health aspects. It would also be appropriate for the committee to appoint an adviser with an appropriate professional background to assist Dorothy-Grace Elder. Do we agree that she should be appointed as a reporter on the issue and that the clerks should begin the procedures to appoint an adviser?

Members indicated agreement.

The Deputy Convener: Is Dorothy-Grace Elder happy with that?

13:00

Dorothy-Grace Elder: Yes. I am always happy with sludge.

Police Assaults (PE482)

The Deputy Convener: I have another couple of points of information about letters that we have received.

Petition PE482 is from Mr Douglas Keil and is on behalf of the Scottish Police Federation. On 23 April 2002, the committee agreed to write to the Executive to seek urgently its comments on the issues that were raised in the petition. In particular, the letter requested an indication of whether the Executive plans to examine the feasibility of introducing measures to address the petitioners' concerns. The committee also agreed

to write to the Association of British Insurers and Liberty to seek their views on the insurance and civil liberties issues respectively.

We have received a reply from the Scottish Executive, which states:

"I refer to your letter of 20 November and apologise for the delay in responding to your earlier letter which asked for views on a number of issues arising from the Committee's consideration of a petition submitted by the Scottish Police Federation (SPF) on behalf of its members.

As you know, the petition sought support for the introduction of legislation that would make it compulsory for those who are involved in an incident involving a police officer and who cause that officer to be exposed to the risk of contracting a blood-borne disease or infection to submit to an appropriate test, and for the results of that test to be made available to the officer concerned.

These proposals raise a number of complex legal issues which are taking some time to consider, but I hope to be in a position to respond shortly."

The letter is from Mr Bill Barron of the justice department's police division.

We wanted to highlight the delay from April to November.

Phil Gallie: It is worth while saying that we share Mr Keil's concerns and that we, too, are concerned about the time that it has taken the Executive to respond.

The Deputy Convener: Perhaps it would not hurt if we sent a response to the Executive to say that the committee is concerned about the long delay.

Phil Gallie: We should also say to the clerk that we expect him to report back two meetings on from this one—immediately in the new year—to tell us what progress has been made.

The Deputy Convener: I am a Fifer—the policeman involved comes from Fife—but all members, no matter which part of Scotland they are from, know how serious the matter is. I vividly remember the family and the police officer's concerns. To do those people justice and because the matter relates to front-line work, we must urge the Scottish Executive to address it urgently.

Dorothy-Grace Elder: I asked a question on the subject in Parliament in early May, but I cannot remember there being anything worth holding on to in the answer. Clearly, the committee flagged up the matter as a result of the family appearing before us. I think that my question related to changes in the legislation regarding panga knives. I asked about treating the type of incident that we are talking about as being in the same bracket as threatening with a weapon.

As members will recall, some people who attack the police refuse to hand over their medical details, which means that the officer and his or her

family suffer for another three to six months. People should be compelled to hand over the information, even if that is done behind the scenes and it is given to the doctor of the officer involved. The situation is shocking. We must have an early reply on this important matter. The Executive has had months to reply.

The Deputy Convener: Your views will be contained in our letter, which will express our extreme concern.

Employment of Teachers (Religious Discrimination) (PE269)

The Deputy Convener: We turn to PE269, which is from Mr James Nixon. Members will recall that the petition calls for the Scottish Parliament to repeal the sections of the Education (Scotland) Act 1980 that relate to religious beliefs and the employment of teachers. On 4 December 2001, the committee considered a response from the Scottish Executive. The committee noted that the Executive has no plans to amend the legislation that covers the appointment of teachers in denominational schools and that it does not consider the issues that are raised in the petition to be in contravention of the European convention on human rights.

The committee agreed to refer the petition to the European Parliament Committee on Petitions for its consideration. That committee's chairman has responded:

"It is now almost a year since you referred the petition submitted by Mr James Nixon for our consideration. The petition was registered as petition 227/2002.

I have, today, addressed a letter to Mr Nixon informing him that we consider the issues raised by his petition to be essentially the competence of the United Kingdom authorities including, of course, the Scottish Executive.

We are very much aware of the implications at the European level of any serious case of religious discrimination, no matter which denomination may be concerned. Practically speaking, however, we are obliged to bear in mind the competencies of the European Union, as they now stand. Because of the objections of many Member States, it has not yet proved possible, for example, to incorporate as the European Parliament would have wished, the Charter of Fundamental Rights into the EU Treaties. As your petitioner himself has pointed out, the European Convention on Human Rights remains the relevant legal instrument in such legal matters.

I share the views expressed by the Scottish Executive in this respect regarding this case. It will therefore be up to the petitioner to decide whether he takes this issue through the appropriate legal channels bearing in mind the possibilities now open to him within the United Kingdom."

He then expresses his best wishes to members of our committee.

I have given members that response from Nino Gemelli for their information and to close the loop on the petition.

Inadmissible Petitions

Sale of Fireworks (IP32)

The Deputy Convener: We move to inadmissible petitions. We were petitioned by Mr Frank Harvey, who called for the Scottish Parliament to impose a ban on the public sale of fireworks. The advice that we have received is that the petition would be inadmissible. Members will be aware that the regulation of the supply of goods and services is reserved under the Scotland Act 1998 and that the sale of fireworks is regulated under consumer protection legislation, which is also a reserved matter.

The United Kingdom Parliament plans to ban certain grades of fireworks from being sold to the public, as announced during the recent Queen's speech. Moreover, during a recent members' business debate on the issue, the Deputy Minister for Finance and Public Services confirmed that the Scottish Executive would consider the possibility of introducing a licensing scheme for those who sell fireworks to the general public.

The issues and actions called for in the petition are clearly reserved matters and are the responsibility of the UK Parliament. Therefore, they are outwith the competence of the Scottish Parliament, and on that basis, it is recommended that the committee should agree that the petition is inadmissible. However, the committee may wish to agree to suggest that the petitioner pursue the matter further with the relevant UK Government minister, perhaps via his local MP, while highlighting the Executive's intention to consider introducing the aforementioned licensing scheme.

Are members content with that advice?

Dorothy-Grace Elder: Shona Robison is putting a member's bill through Parliament on the issue. I do not know whether it will make it through in this session.

The Deputy Convener: That concerns the licensing issue, and we could refer to that in our response. Is that agreed?

Members indicated agreement.

Human Rights (Prison Officers) (IP33)

The Deputy Convener: Petition IP33 was from Derek McCabe and called for the Scottish Parliament to ascertain a definitive legal statement in relation to the rights of Scottish prison officers under the Human Rights Act 1998. The petitioner argues that the exemption of certain professions, including Scottish prison officers, from the Disability Discrimination Act 1995 and the Criminal Justice and Public Act 1994 may be invalidated by the 1998 act.

Members are aware that the Scottish Parliament does not have a role in the interpretation of legislation. That is purely a matter for the courts. Furthermore, in questioning the exemption of certain professions from the Disability Discrimination Act 1995, the petitioner raises a reserved matter that is the responsibility of the UK Parliament and therefore outwith the competence of the Scottish Parliament. On that basis, it is recommended that the committee should agree that the petition is inadmissible. However, the committee may wish to suggest that the petitioner pursue the matter with the relevant UK Government minister, perhaps via his local MP. It would also be appropriate to suggest that he might want to seek the advice of his union. Is that agreed?

Members indicated agreement.

Convener's Report

The Deputy Convener: There is no convener's report, so all that remains to be said is that we have an extra meeting next Tuesday. The committee will be glad to have the convener back for that.

Dr Ewing: I put on record how very well our deputy convener has conducted the meeting. It was not an easy meeting, as the petitions were difficult.

Members: Hear, hear.

The Deputy Convener: Thank you very much.

Meeting closed at 13:09.

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