

PUBLIC PETITIONS COMMITTEE

Tuesday 14 January 2003
(*Morning*)

Session 1

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PUBLIC PETITIONS COMMITTEE

1st Meeting 2003, 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:

Dr Ken Aitken (Action Against Autism)

Dr Gordon Bell (Action Against Autism)

Carolyn Heron

John Heron

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

Steve Law (Action Against Autism)

Marilyn Livingstone (Kirkcaldy) (Lab)
Dr John March (Action Against Autism)
Tricia Marwick (Mid Scotland and Fife) (SNP)
John O'Brien (Lee O'Brien Solvent Trust)
Susan O'Brien (Lee O'Brien Solvent Trust)
Mr Gil Paterson (Central Scotland) (SNP)
Mr Lloyd Quinan (West of Scotland) (SNP)
Euan Robson (Roxburgh and Berwickshire) (LD)
Ross J Vettraino (Leslie House 21 Group)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Joanne Clinton

LOCATION

The Chamber

Scottish Parliament

Public Petitions Committee

Tuesday 14 January 2003

(Morning)

[THE CONVENER *opened the meeting at 10:02*]

The Convener (Mr John McAllion): Welcome to the first meeting in 2003 of the Public Petitions Committee. We have received apologies from Winnie Ewing. I am sure that I speak on behalf of all members when I say that our deepest sympathies and condolences go to Winnie, Fergus, Margaret and the whole Ewing family for the very tragic loss that they suffered recently. Our thoughts are with Winnie and the rest of the Ewing family.

Convener's Report

The Convener: Although the first item on our agenda is new petitions, I seek members' permission to move the convener's report to the head of the agenda, so that Dorothy-Grace Elder may report on the visit last week of the European Parliament Committee on Petitions concerning a public petition that we considered previously.

Members indicated agreement.

Dorothy-Grace Elder (Glasgow) (Ind): Welcome back, convener.

The visit of the European Parliament Committee on Petitions was highly successful. Members may recall that the Scottish Parliament received a petition from the people of Carntyne on the cattle incinerator that operates in their area. Our system dealt with the petition well and referred it to the Transport and the Environment Committee. The conveners of both the Public Petitions Committee and the Transport and the Environment Committee were most helpful. Fiona McLeod was appointed as a reporter on the petition.

At the same time, I took the matter to Europe. Only when the Committee on Petitions delegation arrived did I find out that the odds against any petition to the committee succeeding are roughly 1,500:1, because the committee handles more than 1,500 petitions per year. The odds against a delegation being sent are many times greater than that. As a delegation was sent, one cannot say fairer than that.

The Committee on Petitions decided in July last year to send a delegation after I presented it with the evidence against cattle being incinerated in a highly built-up area and pointed out that no other cattle incinerator in Europe operated in such an area.

Last week, the delegation arrived and questioned everybody who needed to be questioned, including the head of the Scottish Environment Protection Agency, Scottish Water and Government ministers in Edinburgh. The delegation also spoke to supportive MSPs, including the constituency MSP, Margaret Curran, who is against the incinerator. There was a huge meeting in Glasgow city chambers, which was chaired by the Lord Provost. The delegation visited the cattle burner and Paterson's dump. The members of the delegation—members of the European Parliament from Spain, Wales and Austria—were hands-on, mud-on-the-boots, professional people who showed a genuine human concern for the people of Glasgow. At the end of the visit, the members of the delegation agreed unanimously that the incinerator should never have been located in that area and that they would recommend to Brussels that the incinerator

be closed. They will contact the Westminster Parliament and are prepared to take the matter to the floor of the European Parliament if necessary. Further, if a sensible political solution is not arrived at shortly, they are prepared to take a legal route.

The exercise has brought the two Parliaments much closer together. The delegation was the first on the subject of pollution and the process could lead to Scotland's rules on pollution being tightened—we have had other petitions on that matter. I am grateful to the European Parliament and to the Public Petitions Committee for the efforts that have been made in relation to this matter. In that regard, I make particular mention of David Lowe, the European Parliament's equivalent of our clerk, Steve Farrell, who was part of the delegation. I close by raising once again the fact that the European Parliament Committee on Petitions has a 40-strong secretariat, whereas we have only part of Steve Farrell slogging away.

The Convener: I suggest that I write to the European Parliament Committee on Petitions on behalf of the Public Petitions Committee to thank it for the work that it has carried out and to say that we look forward to further co-operation between our two committees on issues of joint concern.

Phil Gallie (South of Scotland) (Con): We should also record our congratulations to Dorothy-Grace Elder, who has pushed this petition from the day it came before us. She has played a considerable part in the process.

The Convener: Absolutely—the odds were a lot more than 1,500:1 when she started, but that is nothing to Dorothy-Grace.

New Petitions

The Convener: I seek members' agreement to consider petition PE580 after we have considered petition PE575. Marilyn Livingstone has to leave shortly and she would like to speak on PE580.

Members indicated agreement.

Livestock Premiums (PE575)

The Convener: Petition PE575 calls on the Scottish Parliament to investigate the status of partnerships, and in particular married couples in partnership, in relation to access to livestock premiums that are available through the Scottish Executive environment and rural affairs department. It also calls on the Parliament to make recommendations for the modernisation of the definition of partnership to take into account modern legislation on joint ownership of property.

The petitioners, John and Carolyn Heron, will make a brief presentation to the committee in support of the petition.

John Heron: When our children came along, Carolyn and I decided that it was in the interests of our family to buy a holding in Scotland. Previously, I had worked for my father in Northern Ireland. I was brought up on a working farm and Carolyn's family had farming connections, so our interests lay in the industry.

When we moved to High Todhill in December 1999, not knowing the Scottish system, I went to our local SEERAD agricultural office in Ayr for help. I was told to go to the rural advisory centre in Auchincruive, which would, for a yearly fee, complete on our behalf the national reserve application form and any other associated stocking forms related to the business. The completed form and the relevant qualifications, including a national certificate in agriculture, a college certificate and both our birth certificates, were checked and received by the officer dealing with our area at the office in Ayr.

The quota subsidy system is designed to help farmers to purchase and set up a herd of animals—in our case, suckler cows. National reserve is the amount of quota that is gathered by the Executive for distribution by siphoning from all the sales of suckler cow quota. It uses the national reserve to enable new producers to get into the farming industry, as we were trying to do.

We applied for national reserve in spring 2001 under category 3(b)—there are six categories—but in May 2001 we received a letter that informed us that we were being refused a quota because we were a partnership, not a sole producer. If Carolyn or I were the sole owner, we would have been eligible for a quota. However, we are married

and we believe that all our possessions, including our business, belong equally to both of us. We are being penalised for being married and wanting to work together in our new venture.

It is ironic that the rules seem to be different for sheep quota. The explanatory notes for sheep quota clearly state that married couples qualify as a sole producer. We sought to find out how to change the rules, but got nowhere. We have exhausted all the avenues of help. Jim Walker of the National Farmers Union of Scotland said that if we had come to the NFUS in the first place, things could have been different. Everyone we have spoken to believes that the current situation is a disgrace, but no one seems to be able to help.

We contacted our MSP, Margaret Jamieson. We thank her for her help and support, but even her hard work has failed to get any real answers. We know only that the rules are based on the definition of partnership set out in an 1890 law. How can that be changed? No one will tell us. Is it a decision for SEERAD or for the Department for Environment, Food and Rural Affairs, since the matter arises from European Union legislation, or does responsibility lie jointly with DEFRA and the devolved authorities?

Married couples should be considered as a sole producer in all cases. A married couple is not like two brothers or a father and son in partnership. If Carolyn and I were to buy a house in town, the mortgage would be in both our names.

The system affects every young couple who try to get into farming as a business. If they set up in business as a married couple, they will not be able to get quota allocated to them. That will impact on their decision to come into farming. It may be too late for us. We are having to reconsider our position in the industry—we have a young family—and may be forced to sell up. As a result, yet another farm will become vacant and unproductive. It is essential that archaic laws such as the one on partnership be changed to reflect 21st century life—the Executive should at least interpret them in such a way. We ask the committee to help us to do that for all young couples, who are the future of farming.

The Convener: Thank you. Does Margaret Jamieson, the constituency member, want to speak in support of the petition?

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I fully support the statement that Mr Heron has made to the committee. My constituents, my staff and I have worked tirelessly on the matter. We have contacted the devolved assemblies in Wales and Northern Ireland as well as our colleagues in the Westminster Parliament. I believe that my constituents have been disadvantaged by the fact that they, like many

young couples, have decided to work in partnership in a marriage.

A letter that we received from SEERAD's agricultural group states:

"The Department has now fully considered your application and I regret to inform you that you have been unable to demonstrate your eligibility under this category for the following reason:

This category is only appropriate for individuals and you appear to have applied as a partnership or a company."

A marriage is a partnership. Women did not form partnerships or have an equal standing in marriage in 1890, but the department fails to recognise that things have significantly moved on in 2003. We have been unable to overcome that impediment. I urge the Public Petitions Committee to support Mr and Mrs Heron in trying to overcome the anomaly—that is the best description of the problem—and help them to participate in the suckler cow premium scheme.

Rhoda Grant (Highlands and Islands) (Lab): Mr Heron said that if he had been involved in sheep farming, the situation would have been different, as the petitioners would have been recognised as a sole trader rather than as a partnership. How would that be the case?

John Heron: One of the advisers at the SEERAD office in Ayr—like us, the staff there could not understand why we did not get a quota—went through the literature involved in applications for other schemes. He found and marked for us a paragraph that said that, under Scots law, a married couple was accepted as a sole proprietor or sole producer.

Rhoda Grant: Surely if that is Scots law, it should apply to both sheep and cattle farming.

John Heron: We thought so.

Rhoda Grant: But you have had no joy.

John Heron: We have applied at least twice for a quota, but we cannot get one.

Rhoda Grant: Does the same situation apply in Wales, England and Northern Ireland?

John Heron: I am not sure. Some of Margaret Jamieson's staff looked into that. Whether an application is successful more or less depends on the interpretation of the rules.

Rhoda Grant: Is the Scottish interpretation of the European rules causing the problem?

John Heron: Yes.

Phil Gallie: Can you confirm that you qualified for a quota in every aspect of the 3(b) application except the partnership element?

John Heron: Yes. We were both under 40 years old and were setting up a new business. I had

agricultural qualifications from college in Northern Ireland. We thought that we had a very strong case, but the response to our application was negative.

10:15

Phil Gallie: I find it surprising that the system dates from a time when, as Margaret Jamieson said, those issues were not really relevant. Nowadays, it would be relatively easy for the minister responsible for agriculture to introduce a Scottish statutory instrument to rectify a misnomer concerning married couples, especially given the system for sheep quota. Why do you think the minister has taken an apparently hard-line, bureaucratic stance?

John Heron: I cannot answer that question. We have questioned the people involved with quotas at SEERAD's headquarters in Robb's Loan in Edinburgh, but they were determined that the rule could not be altered. I know that Margaret Jamieson asked questions in the chamber on the subject, but we never received a satisfactory answer.

Phil Gallie: You mentioned the president of the NFUS, who seems to have taken a fairly negative view. Is he going to do anything about the situation?

John Heron: No. It is as simple as that.

Phil Gallie: Did he give any reasons why he would not do anything?

John Heron: As far as we are concerned, all the NFUS did was make one telephone call to an organisation that we had spoken to many times. Once the NFUS spoke to that organisation, which explained the decision and the rules, it just washed its hands of us.

Phil Gallie: So the NFUS accepted the rules as being unchangeable and was not prepared to question them.

John Heron: Perhaps the NFUS did not think that it was in its interests to pursue the case. I do not know.

Phil Gallie: You qualified under categories 4 to 6(b), but were told that there was no money left in the kitty.

John Heron: That is right.

Phil Gallie: Do you know how much money was in that kitty at the start? Was the money allocated on a first-come, first-served basis?

John Heron: It seems that the closer to the top of the list you are, the better your chances. We were told that the fact that we were married meant that we were counted as being a partnership and that we would be in category 6. We were told that

many quotas were available and that we would get one further down the line. That is why, when our application was refused, we did not pursue the matter right away. When we were told that no quotas were awarded to applicants beyond category 3, it burnt our fingers a little.

Phil Gallie: When you applied for the quota, did you act on advice from SEERAD or from advisers at the Scottish Agricultural College at Auchincruive?

John Heron: A girl at Auchincruive filled out the form with me. She spoke to advisers behind the scenes about any points on which she was unsure. They said that they would keep everything right and that we qualified for the quota. I had spoken to numerous SEERAD officials at its office in Ayr and all were very confident that we would get a quota. In fact, the chief veterinary officer at the time said that if anybody would get a quota, we would.

Phil Gallie: If you had been given the correct advice from the start, would it have influenced how you made the application and registered your business or would you have thought that you were being asked to pay too high a price?

John Heron: We probably would have been influenced. Getting the quota and the subsidy that comes with it means so much to our business that we would have done nearly anything to get it.

Phil Gallie: Will you give us an idea of the money involved?

John Heron: The subsidy is all the income from farming that there is. The stock is doing well on the ground, but that is of no use unless we have a subsidy.

Helen Eadie (Dunfermline East) (Lab): One of Ross Finnie's letters states:

"following routine checking of national reserve applications, it has come to light that John H Heron received an initial allocation of quota, in his own name, in 1993 based on his 1992 SCPS claim made in Northern Ireland. Mr Heron used this quota to make subsidy claims in Northern Ireland before selling it during the 1999 SCP scheme year and moving to Scotland. Clearly, had Mr Heron divulged this information, as requested on the application form, this claim history in itself would have debarred any application from him under a new comer to farming category of the reserve."

Would you comment on that?

John Heron: I came from Northern Ireland with some stock and made it no secret to SEERAD and the Scottish Agricultural College that I previously had a very small quota. It was only a sideline—I worked with my father in Northern Ireland and had only 16 cows. People are not allowed to bring quota over—it must be got rid of in Northern Ireland before they come here. We were penalised by not being allowed to bring a small quota with us

and by being told by SEERAD and the SAC that we were a new company, as J & C Heron was a new venture. We did not have quotas in our names previously.

Dorothy-Grace Elder: You said that you have a family to support. How many children do you have?

John Heron: Two—an eight-year-old boy and a five-year-old girl.

Dorothy-Grace Elder: Perhaps you hope that they will continue in farming if things work out well. How long have you been married?

John Heron: Nine years.

Dorothy-Grace Elder: Did the decision to settle in Scotland represent an entirely new start for you in farming?

John Heron: Yes.

Dorothy-Grace Elder: Do you know of any other couples who run their farms as you do, for whom only one person submits an application?

John Heron: Obviously, there must be similar couples, as numerous married couples get quotas. They must have been given different advice to get by the rules. When we were turned down, we asked whether either of us could apply in one of our names as a sole producer, but were told that we could not do so, as we had been in a partnership.

Carolyn Heron: I could have been a newcomer to farming.

Dorothy-Grace Elder: Were you told which definition of marriage was used? Was it defined using the usual broad terms of Scots law, or was a legal marriage certificate required? Was any distinction made?

Carolyn Heron: We cannot get any answers at the moment.

Dorothy-Grace Elder: If a couple were cohabiting, for example, things might be different.

John Heron: I do not know what definition was used.

The Convener: One of Ross Finnie's letters states that there have been

"no approaches from the industry"—

which I take to mean the NFUS—

"seeking changes to the current arrangements."

Do you know whether the policy of the NFUS is to support the current arrangements, or is it in favour of change?

Carolyn Heron: We cannot get answers from anyone. We do not know who makes the rules. Margaret Jamieson and her researchers have also tried to get answers.

The Convener: As there are no more questions, I thank you both for giving evidence. You are free to listen to the discussion on what should happen to the petition.

It is suggested that the committee should write to the Scottish Executive to seek its comments. In particular, the committee should request confirmation as to whether the Executive has any plans to reconsider its decision not to review the eligibility criteria or the categories for the national reserve, as highlighted by Ross Finnie in October 2001. The committee could seek an explanation as to why new partnerships that apply for the first time are not eligible for funding under category 3(b) and seek comments on the claim that that discriminates against partnerships and couples. I suggest that we also write to the NFUS and ask for clarification of its attitude.

Rhoda Grant: When we write to the NFUS and the Scottish Executive, rather than ask them to explain why new partnerships cannot be accepted, we need to ask why married couples cannot be accepted. There is quite a difference. One could form a partnership with someone else and make it into a company. However, married people or people who live together are quite different from a formal partnership.

The Convener: Yes, we can do that as well.

Dorothy-Grace Elder: Leading on from Rhoda Grant's point, should we point out that natural partnerships could be formed by a couple of brothers or a couple of sisters? The situation seems to be a form of attack on family life and farms, but farms are largely dependent upon families and always have been. Therefore, we should ask about other partnerships, such as those that are family-based. There is a mixture of partnerships involved in running farms.

The Convener: We will have to wait for a response from the NFUS and the Scottish Executive. At that stage, we will be able to decide what positive action to take.

Phil Gallie: Can we ask the minister what it would take to amend the law? It should be possible to introduce a statutory instrument.

The Convener: We can ask for clarification on whether that would require primary legislation or whether it could be done by introducing a statutory instrument.

As no one has any further points, I thank the petitioners for their evidence. We will keep you informed of the progress of the petition and any replies that we receive from the Executive and the NFUS.

Solvent Abuse (PE580)

The Convener: Petition PE580 is from Mr John O'Brien on behalf of the Lee O'Brien Solvent Trust, calling for the Parliament to recognise the serious problems with solvent abuse in Scotland and to introduce preventive safety measures to help to combat solvent abuse. Susan O'Brien will introduce the petition.

Susan O'Brien (Lee O'Brien Solvent Trust): This time last year, my brother, Lee O'Brien, was a healthy 16-year-old boy with his whole life to look forward to. Tragically, on 16 January 2002, his life was cut short when he inhaled cigarette lighter refill gas. The product is available in most shops and costs approximately 99p. Existing regulations require a person to be aged 18 to purchase the gas. Unfortunately, the gas is still available to youngsters through the negligence of shopkeepers or the influence of older people. It is a legal substance but it is lethal in the wrong hands.

Every year in the United Kingdom, volatile substance abuse kills approximately 70 youngsters aged between 12 and 18. Eight of those deaths occur in Scotland. Butane gas represents approximately half of all volatile substance abuse deaths.

Those deaths are a tragic waste of life. We believe that the Government should be more responsible and protect our children from the dangers of solvent abuse. Society knows that smoking, drinking too much and abuse of illegal drugs are bad for you, but people do not know enough about solvent abuse and that it can kill instantly.

The issue deserves more recognition as a serious problem. In particular, the regulations for the sale of cigarette lighter refill gas are far too lenient and the authorities do not enforce them strictly enough. We want the regulations to be tightened and new preventive safety measures introduced. We would like the Parliament to consider the following objectives.

There should be a reduction in the size of canisters from 250ml to 50ml. There should be better warnings on the canisters and compulsory warning signs in shops stating the age restriction. There should be an increase in the age limit to 21. Retailers should be licensed to stock and sell butane gas products. Decoys should be used in shops. Retailers should be made more aware of the issues and there should be better education for children and parents.

LOST would also like the Public Petitions Committee to acknowledge the huge amount of support that the campaign has received. In particular, we thank Marilyn Livingstone for all her support over the past year. Our petition is

supported not only by 15,000 signatories, but by 25 Scottish councils. LOST would like the Scottish Executive to recognise that when it is considering the petition.

We are honoured to have been invited to the Public Petitions Committee today and we thank the committee for its time. I will now pass over to my father, John O'Brien.

John O'Brien (Lee O'Brien Solvent Trust): I wish that we were here in better circumstances, but unfortunately we are not. It saddens me to think that I have lost my only son to solvent abuse and it does not make me feel any better to know that 2,000 other children have also lost their lives. The fact that people are willing to assist and support us in our attempt to put a stop to such deaths helps to take away the pain and anger.

The petition comes with the names of 25 council leaders, who represent each and every community in Scotland, from as far away as Shetland and Orkney to Glasgow, Dundee, Edinburgh, Aberdeen and East Renfrewshire. You name it, we have it here. The petition represents 5 million people in Scotland, who are calling out for changes in the law to protect their children. There has been a great gathering of the clans—from the Highlands to the lowlands, everybody supports us.

10:30

Test purchasing is up and running in England and saves the lives of English people. If it is good enough to save the lives of English people, it should be good enough to save the lives of Scottish people, but we do not have such a system up and running in Scotland. At the moment, Scottish people have no protection against solvent abuse. We want the Scottish Parliament to have courage and to lead the way.

We also want local authorities to take action against irresponsible shopkeepers. Too many shopkeepers put profits before people—they know that children buy certain products in order to abuse them, but they take the money anyway. The Scottish Government gives traders licences to trade, so it is responsible for ensuring that the traders do so legally. Too many shopkeepers sell to under-age children cigarettes, alcohol, knives, videos and fireworks that dement animals.

We can put an end to solvent abuse; all that it would take is a bit of courage from the Scottish Parliament. We have the support of the people of Scotland, who are calling out for the Parliament to make changes and to protect our children. In the coming elections, members will expect the people of Scotland to support them. The people of Scotland are asking members to support us. We believe that God will show us the way. Anyone who denies God denies only themselves.

The Convener: Marilyn Livingstone is here to say a few words in support of the petition.

Marilyn Livingstone (Kirkcaldy) (Lab): I thank the Public Petitions Committee for allowing us to make the case this morning. I also thank John and Susan O'Brien. They have thanked many other people but, without their work, we would not be here today and there would have been no campaign. Dorothy-Grace Elder told them earlier that the campaign is a brave one, which is true, because it follows the death of a son and brother. The committee should commend the fact that they are thinking not only about their family, but about all children in Scotland. They are trying to introduce changes so that no one else has to suffer what they have suffered.

Nobody doubts how unsafe and lethal such products are in the wrong hands. What we are asking for is not rocket science. We want safety measures to be put in place, such as the reduction of can sizes and—as exists for cigarettes and alcohol—warning posters in shops to say that the products are dangerous and can kill. A relevant point is made in Re-Solv's recent loaded gun campaign. People can abuse solvents three times and suffer no harm, but the fourth time it might kill them. We must get across the idea that taking such products is like playing Russian roulette.

On 18 December, the Parliament had a members' business debate on the subject, to which Hugh Henry responded for the Executive. There will be three test-purchasing pilots for cigarettes, which will be helpful to the campaign because they will highlight the difference between the law in Scotland and the law in England. Following that campaign, we will set up a test-purchasing scheme in Fife to find out the extent to which the legislation is being abused and how often shopkeepers are selling the product over the counter when they should not be.

The petition asks that we take sensible precautions on the issue and that we introduce an education campaign. Although there has been a lot of publicity about drugs, tobacco and alcohol, we want to point out that solvent abuse is just as lethal. The figures that John O'Brien has cited are real and represent real tragedies in real families. We ask the Scottish Parliament to support the campaign.

The Convener: Thank you. I think that Tricia Marwick also wants to indicate her support for the petition.

Tricia Marwick (Mid Scotland and Fife) (SNP): It is a pleasure to be here to support the petition. We should congratulate John and Susan O'Brien on launching the campaign, which, after the death of a son and brother, is certainly an example of hope born out of tragedy.

As I said in the members' business debate that Marilyn Livingstone referred to, I think that we have all taken our eye off the ball as far as solvent abuse is concerned. Indeed, just as people are currently campaigning for fireworks to be licensed, I feel that substances such as lighter fuel should also be licensed. As a result, we need to consider the matter in terms of the Civic Government (Scotland) Act 1982 to ensure that traders are licensed before they can sell such substances.

We also need an education campaign aimed at schoolchildren and trading establishments to ensure that we stop tragedies such as the one that happened to Lee O'Brien. I am sure that the Public Petitions Committee will respond positively to the petition.

The Convener: Thank you. I will open up the meeting to questions from committee members.

Phil Gallie: I concede that I do not know a lot about the wider issues that the petition raises and suspect that the petitioners have carried out considerable research on the subject as a service to the rest of us.

You mentioned lighter fuel. I have no difficulty in supporting the sensible measures that have been proposed about reducing the size of containers. However, what about other substances that can also be inhaled? For example, do white spirit, which can be picked up at B&Q, various types of glue and maybe carbon tetrachloride—although I do not know whether that is still available on the shelves—fall into the same category, or are you specifically worried about lighter fuel?

Susan O'Brien: More than 30 products in the average household can be subject to volatile substance abuse. Obviously, we are concerned with lighter refill gas, which, as statistics show, claims more lives than any other product. There are regulations that prevent children from purchasing products that might be abused, but I do not know how effectively they are enforced.

Phil Gallie: I suspect that the situation with glue is similar to that with lighter fuel. However, I can easily see lighter fuel being accommodated as far as size is concerned.

Susan O'Brien: Although lighter fuel is one of the more lethal substances, it is very easily purchased over the counter in most shops and is too readily available to kids. The fact that it is cheap attracts youngsters to buy and abuse it, and we feel that there should be more control over the sale of the substance in shops.

John O'Brien: We have carried out a lot of research into the topic and have discovered that between 70 and 80 children in Scotland and England die each year. Indeed, a total of 2,000 children have already died. If we do not put a stop

to the abuse now, we will be back here in a few years' time, when the total will have reached 3,000, 4,000 or more.

Lighter refill gas—or butane—kills instantly. At the inquest into my son's death, the procurator fiscal told me that it takes 20 seconds for the substance to kill. Once the person's heart becomes irregular, no paramedics, doctors or life-saving equipment can save them. Once the reaction has set in, the death rate is 100 per cent. The youngest of the 2,000 children who have died is a seven-year-old boy—imagine that.

A lot of children cannot read; they are uneducated and do not know what the warning signs mean. Children are unafraid and will try anything that their peers are trying out.

Lighter fuel is too readily available. I can go to any jumble sale or car-boot sale anywhere and buy it. I could then give it to whomever I wanted—the law cannot do anything about that. I can aid and abet a youngster. It has been proved that people who bought lighter fuel and gave it to a youngster got off scot free when the youngster died. I believe that anyone who supplies lighter fuel to a youngster who dies is aiding and abetting the child's death and should be dealt with accordingly.

We can solve the problem of solvent abuse. All that we have to do is to take up our courage and address the issue properly. The people of Scotland are fed up—their children are dying on the streets.

Children are using lighter fuel because they get a high or a buzz out of it. They cannot buy alcohol or illegal drugs, but why should they do so when a legal product is sold in every shop on every street corner and in every jumble sale or car-boot sale in the country? Lighters should be a licensed product; anyone buying one should have to give their name and address and sign for it. We could then trace the lighter back to the person whose irresponsible actions made them responsible for a youngster's death.

Rhoda Grant: You said that lighter fluid is the most important solvent in this context. If we concentrated on butane gas, would young people move on to use other substances, or are those other substances less easily available than butane gas is?

John O'Brien: They are as readily available as butane gas, but butane gas it is an instant killer. It comes out as a liquid oxygen and freezes the muscle at the back of the throat, which makes the throat swell up. That stops the person breathing and makes the heartbeat irregular. It is not possible to sort that out.

Other substances, such as hairspray and deodorants, are not as bad as lighter fluid, which

is the gas that children go for. They recognise that it is a product that they can get at; they know that it will give them an instant high or a buzz. Youngsters do not have to seek out illegal drugs—it is perfectly legal to buy lighter fluid.

Susan O'Brien: We are focusing on lighter fuel, but that is no reason for not also focusing on products such as hairspray and other aerosols. The fact is that regulations are in force for cigarette lighter refill gas. We hope that those regulations will be tightened to give stricter controls over the sale of the gas.

Rhoda Grant: Concern has been expressed about whether test purchasing can lead to prosecutions. I imagine that a prosecution would be required to remove a trading licence. How much research has been done on the subject of test purchasing? Do you know whether the law can be changed to allow test purchasing?

Susan O'Brien: Test purchasing has been under way for the past few years in England and that successful prosecutions have been made as a result. In Scotland, as a result of the debate that was held in the chamber in December, the decision was taken to set up a test-purchasing scheme in Fife, which will act as a pilot for a few months. Although the pilot will not lead to prosecutions at the moment, it will give us some evidence and statistics. I am not sure whether the law could be changed in future to allow prosecutions of shopkeepers who fail to comply with the regulations.

John O'Brien: Test purchasing is needed to keep shopkeepers on their toes, as they are too irresponsible. If test purchasing is good enough for the children and the people of England, it should be good enough for the people of Scotland. It is a proven fact that test purchasing works. Lighter refill fuel has to be licensed and only certain shops should be able to sell it. As I said, people should have to give their name and address when signing for it. Lighter fuel is lethal; it is a loaded gun that kills instantly.

The Convener: Before I bring in Dorothy-Grace Elder, Marilyn Livingstone wants to say something at this point.

Marilyn Livingstone: I just wanted to say that the minister said that three pilots will start in February to test purchase tobacco. The principle of the pilots is the same—it will test the difference in the law between Scotland and England. The minister said that, although the pilots will test purchase tobacco, they will test the same legal point. The three pilots in Fife could have an effect on the subject of the petition. Perhaps Susan O'Brien can remember the time scale of the pilots. I know that they start in February.

Susan O'Brien: The cigarette test-purchasing pilots start in February.

Dorothy-Grace Elder: Again, I congratulate the petitioners. The campaign is remarkable because of what you have suffered. As you know, people need only one signature on a public petition, but you have troubled yourselves to get 15,000 signatures. I have not known of a petition that is backed by 25 Scottish councils. That is a magnificent effort.

I have a few things to ask about the lighter fuel trade. Is there any research to indicate how legitimate the buying of such fuel is nowadays? We are in the age of the disposable lighter. I do not see many smokers refilling their lighters nowadays. Is there any indication about whether in some areas the bulk of the product is sold to children whose lives are then put at risk?

10:45

Susan O'Brien: Not that I am aware of, but you have made a good point. That would be a good avenue to investigate. Disposable lighters cost £1 for five. I know of few people who buy cigarette lighter refill gas to refill their lighters.

John O'Brien: The truth is that lighter refill gas is not being used in the way in which it was being used 30 years ago. It is being used as an illegal drug and shopkeepers and manufacturers know that.

We attended the Scottish Drugs Forum and met people from St George's hospital medical school in London. They have all the statistics on the children who have died and the areas in which they have died. A lot of solvent abuse is related to crime. When 14-year-old children get a buzz, it makes them go out and commit crimes—they vandalise cars and houses and they steal. The taxpayer has to foot the bill for that crime. It is all related. The police are stretched to their limits and cannot deal with the situation. Lighter refill gas is a problem in Scotland.

Dorothy-Grace Elder: The point that I am making is about whether the gas is legitimately needed by smokers in the age of disposable lighters. Are there any statistics on the increase in the numbers of disposable lighters? Those lighters cost only 30p, 50p or 70p. Moreover, refilling a lighter is a fiddly nuisance. Do you think that a lot of the trade is illegitimate and that to a large extent the product is being sold to children?

Susan O'Brien: I would say so. I do not know of any evidence or of investigations that have been carried out to see whether lighter fuel is being used legitimately.

Dorothy-Grace Elder: That is difficult to do. The Executive seems to agree with your proposal

about warning of the terrible dangers of lighter fuel. Would it not be a more sensible idea to try to get a large number of shops in a target area to declare that they do not sell lighter fuel? That would narrow down your proposal so that it could be aimed at those shops that sell lighter fuel, if the other shops are genuine.

Susan O'Brien: That would probably be a good idea. I still feel that a lot of the problem of solvent abuse boils down to lack of education for the retailers. I do not believe that most retailers know the age-of-sale restriction on lighter refill gas. I fail to see why warning posters are not displayed in shops as they are for cigarettes and alcohol. The regulations covering the product are not displayed anywhere.

Dorothy-Grace Elder: Yes, but spot checks are not being made, which means that an unscrupulous shopkeeper would get away with selling the fuel to under-age children.

John O'Brien: There should be a law whereby shopkeepers must display signs that warn that the sale of lighter fuel to children is an offence. A person has to be 18 years of age to buy lighter fuel, but the fact is that 2,000 children under the age of 18 have died inhaling lighter fuel. That should tell us that the product is being abused. It is the modern drug of society today. It costs only 99p a tin and the people who use it do not have to seek out drug dealers to get a high or buzz—all they have to do is walk into the nearest corner shop and purchase it.

We would like it to be known that solvent abuse kills three times more people than illegal drugs such as heroin do. Eight times more people die from solvent abuse than die from using ecstasy. The facts and figures speak for themselves.

The report from Re-Solv and St George's hospital—anybody can get a copy of it to read—gives information on the children who died in the different areas and their ages. The youngest was a seven-year-old, but the majority were schoolchildren aged 14 and 15. At lunch times, they go behind walls and experiment—and when they experiment, the solvent kills them instantly.

Helen Eadie: Good morning, John and Susan. I congratulate Marilyn Livingstone on bringing the issue to the Parliament. I was pleased to take part in the debate that we had just before Christmas.

Last week, we had a reception in Edinburgh with representatives of the retail industry and the following day I met a representative from the European office of the retail industry. It occurred to me that, as well as approaching retail outlets, we might approach the industry at source and speak to the manufacturers of the products. Do you have any thoughts about that? A range of issues could be tackled in that way. For example, the retail

industry is currently tackling the issue of waste and the use of too much packaging. Perhaps we could similarly get the retail industry to examine the manufacturing side to see what could be done.

Susan O'Brien: One of our objectives was to make the retailers more aware of the problem, so your point is important. However, if compulsory warning signs were to be introduced in shops, dangerous substances would be apparent to the retailers and they would have to operate age-of-sale restrictions. We are pushing for that as well.

Helen Eadie: Do you envisage the substance being sold only in a chemist's shop or a specific sort of shop? For example, people have to sign for methylated spirits, as that is a poison.

Susan O'Brien: I do not know whether that would be practical, but it might be a solution.

Helen Eadie: B&Q stores do not have any of the glues on the shelf—people have to go to a special desk and get them from under the counter. There is quite a performance to go through.

Susan O'Brien: There must definitely be stricter control over the product, to stop children having access to it and abusing it.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good morning, folks. You have brought to our attention what seems to be a serious problem. You have obviously done a lot of research into the issue.

I have a lot of sympathy with the case that you make and I would support any legislation that would cut the abuse. However, I would like to ask your views on the wider issue. Anybody could walk into a store and buy, for example, the hairsprays and deodorants in spray canisters that have been causing problems among some of our younger generations. If it were possible to introduce legislation to govern the issue that concerns you, how far would you expect the law to stretch to cover all aspects of the problem?

Susan O'Brien: I do not know whether it would be feasible to stretch the legislation to cover the whole range of aerosol products. As I said, there are 30 products in the average household that could be abused by children. If it was feasible to introduce legislation that could cover other products, that would be great. However, we are focusing on cigarette lighter refill gas, as regulations on that are in force at the moment and we hope that they can be tightened.

John Farquhar Munro: As one of my colleagues pointed out, we live in the age of the disposable lighter. I cannot tell you when I last saw somebody buying a gas canister in a tobacconist's or in a shop. However, there are little capsules for refilling petrol lighters and I am sure that a concentration of those could be just as harmful to

the individual if they were applied inappropriately. The whole issue is wider than the aspect that you are focusing on.

John O'Brien: The fact is that lighter fuel is an instant killer. It takes only 20 seconds to kill. Other products are less harmful, as they do not contain the butane gas that kills the children. Butane gas is manufactured by Shell. Shell passes it on to the manufacturers, who produce the lighter fuel in abundance and make huge profits out of it. The Government takes revenue from those profits. All those people are being irresponsible by not ensuring that safeguards exist against abuse.

It is the intention of LOST—Susan and me—to bring the matter to the attention of politicians. We are not politicians: we can only point out where society has gone wrong. It is our intention to take the matter to 10 Downing Street—to Tony Blair—to lobby his Government, asking why 2,000 children have died from solvent abuse. We will also take the matter to the European Court of Human Rights if we have to. We seek justice for 2,000 deaths. We need answers and we need action. Sympathy does not save lives; action saves lives.

The Convener: Thank you very much. That is compelling evidence. You are welcome to stay and listen to the debate about what should be done with the petition.

It is suggested that, following the debate in the Parliament and the replies that were given by the minister, Hugh Henry, in that debate, we should write to him directly, seeking his formal views on the issues that are raised in the petition. In particular, we should ask him to provide clarification on which of the areas of legislation regarding the sale of lighter fuel are devolved to the Scottish Parliament and which are reserved. We should also ask him for details of any work that the Executive is undertaking on the issue along with the Government at Westminster.

We could ask for the minister's views on the potential licensing of traders who sell the product and whether the Executive has any intention to introduce legislation regarding that. It is also suggested that we ask for details of the four pilot areas that have been identified for test purchasing and that we ask the minister to confirm that those pilots are just for tobacco and not for solvents. We could also ask the Executive for details on the Fife test scheme. In addition, we can ask Fife Council for an update on developments regarding the piloting of a test-purchasing scheme for solvents.

We can ask for details of the Executive's position regarding the petitioners' call for an increase—to 21—in the legal age that a person must be to buy lighter fuel, for a proof-of-age requirement and for a change in the law to make

shopkeepers record every sale of solvents by asking for identification and a signature from those who purchase them. We might also ask whether the minister would consider raising with his UK ministerial colleagues the proposal that there should be a reduction in the size of canisters from 250ml to 50ml and that the warning outlining the dangers should be clearly displayed on canisters. Finally, it is suggested that we ask whether the Executive would consider initiating a poster campaign in retail outlets, or some other appropriate publicity campaign, on the dangers of solvent abuse. Have I missed anything?

Marilyn Livingstone: It would be good to get an outline of what is happening on the education campaign, especially in schools.

The Convener: We could add that. We will include it in the last of those requests, asking specifically for information on the campaign in schools.

Rhoda Grant: Can we ask how the Executive is carrying out its test-purchasing pilots, how it is getting over the legal difficulties and what action it would need to take to change the law to allow test purchasing in Scotland?

The Convener: Yes. We can mention that in asking for details of the four pilot areas. We will ask the Executive specifically what action would be required to change the law in Scotland.

Tricia Marwick: All the methods that you have outlined—such as reducing the size of the canisters and initiating an education campaign—are good and welcome, but the key to the matter is regulation. We can educate the retailers—the corner shop owners—and they can put up posters to their hearts' content. However, one of the big problems that we face is that so many markets—street markets, for example—sell great big canisters of lighter fuel. As many members have asked, who uses lighter fuel for filling up their cigarette lighters these days? I have not filled up a cigarette lighter for 10 years. I never hold on to them long enough to have to refill them. That is why I get disposables.

The key to the issue is regulation. We must regulate and license the shopkeepers if they want to sell lighter fuel. That would automatically cut out the Johnny-come-lately—the person who comes in for a day and goes back out again. It is my firm belief that a licensing scheme is the answer.

The Convener: We will ask the Executive whether it intends to introduce a licensing scheme for traders who sell the product. That is covered in the first point of the suggested action.

11:00

Helen Eadie: As has been pointed out, regulation is the right way to go. However, it would

not go amiss if we were to write to Shell UK to point out the major problem that has arisen as a result of a product that it is involved in manufacturing. Shell UK has a wider corporate responsibility to the community and it always tries to be responsible—at least, in the Scottish context.

We could raise the matter with the representatives of the retail industry who were in Edinburgh last week. We can provide the clerk to the committee with their names and addresses. The retail industry is a big sector of our society and it would be interested to hear from us. The cross-party group in the Scottish Parliament on oil and gas could discuss the issue, too. I declare an interest as a member of that group. I will raise the issue at the group's meeting next week.

The Convener: We can write to Shell UK and to the retail consortium to ask them to respond to the points that are made in the petition.

Phil Gallie: I was impressed by the fact that the petitioners were focused on the issue of lighter fuel. Such focus was very important, given the potential width of the problem.

Dorothy-Grace Elder had her finger on the pulse when she mentioned how much of the use of lighter fuel is legitimate. Someone would have reason to use lighter fuel only if they had bought an old-fashioned lighter. People still do that occasionally, but they tend to buy from specialist tobacconists or jewellers.

Although the questions that we are asking are relevant, we have lost the focus somewhere along the line. A straightforward approach would be for the minister to say that because lighter fuel is used for a specific reason, the sale of it should be limited to those who sell items that require its use. I suggest that we indicate to Hugh Henry that a restricted view on who should sell the product—in other words, retailers of lighters—would be appropriate.

The Convener: The first point of the suggested action proposes that we should ask for clarification on the areas of legislation that relate to the sale of lighter fuel, so there is a focus on lighter fuel in our suggested action. When we ask the minister to comment on the proposal that the law should be changed to make shopkeepers record every sale of solvents by asking for identification and a signature, we could point out that that is not an impractical measure to seek, as the legitimate sale of lighter fuel is increasingly restricted. The fact that few people purchase lighter fuel for legitimate purposes means that the proposal would not place an enormous burden on the retail sector. We should ask for the retail sector's comments on it.

Phil Gallie: Helen Eadie mentioned representatives of the retail industry. We might be able to obtain their support for a highly restricted

source of supply. We could query them on the restriction of availability.

The Convener: We can add that as a separate point in our letter asking for the Executive's views. We can seek the retail sector's views.

Helen Eadie: If we regard methylated spirit as a poison that can kill people, it is not unreasonable to regard lighter fuel as a poison that can kill people. Therefore, it would not be unreasonable to restrict its sale to the sort of retailer that Phil Gallie described or to a chemist's shop. Lighter fuel is a poison that kills people—it is as simple as that. Its sale should be restricted to a single agency.

The Convener: Okay. One of the points that we will make to the minister in our letter is that the sale of this product should be restricted to specific outlets, because of the restricted nature of its legitimate use.

Dorothy-Grace Elder: Helen Eadie made the excellent point about writing to Shell. I assume from that—but correct me if I am wrong, Helen—that you will ask what it proposes to do about this dreadful problem. Could we ask specifically about altering the chemical balance of lighter fuel, as has been done with other products that are potentially harmful, to sicken off the inhalers? I do not know whether that has been tried, but could we ask Shell about that?

The Convener: We could ask about that.

Dorothy-Grace Elder: We could ask what Shell proposes to do in general, and also whether it could alter the chemical balance of lighter fuel to make it unattractive to inhalers.

If we write to the retail trade, would it be possible to send a copy of the letter to the Consumers Association in Scotland—which has some very on-the-ball people—and ask for its views? I completely agree that there must be legislation—we cannot get round that—but I would like to ask the retail trade and the Consumers Association about voluntary codes, which were mentioned earlier. I do not like voluntary codes because they tend not to work, but could we ask about such a code, which might shame the worst offenders? Could we ask the retail trade and the Consumers Association whether there would be value in starting a pilot project in one area, where shops would be encouraged to put up posters saying, "We do not sell lighter fuel"? That would reassure parents and schools, especially with regard to shops that are near schools.

As I said, the issue boils down to the shops that are still selling lighter fuel. A huge question mark remains over that trade. Hairspray is dangerous—although not nearly as dangerous as lighter fuel—and there is a huge trade in it, largely for legitimate reasons. There is a mystery about why the trade in

lighter fuel is still big. A manufacturer of the more traditional type of lighter, for example Ronson, might be able to give details through the Consumers Association on roughly how many of its lighters are sold in Britain in a year; I think that that number would be small. We could be facing the fact that the trade is now largely based on exploiting children and risking their lives.

The Convener: We are already asking the Executive about its plans for education and publicity, so we will ask the retail trade as well.

Dorothy-Grace Elder: Yes, but we should also ask whether the Executive would support a pilot voluntary scheme, whereby shops would say, "We don't sell lighter fuel." One gets weary of worthy health campaigns that say, "This is very dangerous." If you say that to kids, they will say, "Oh, in that case I'm interested in it."

The Convener: I thank the witnesses for their evidence this morning. We will keep you informed of the responses that we receive from the various bodies and what we plan to do once we have the responses.

Residential Care (PE576)

The Convener: We return to the original agenda order, which means that we are dealing with PE576, by Mr Ross J Vettraino, on behalf of the Leslie House 21 Group. The petition calls on the Parliament to urge the Executive to prevent the reduction in residential care places in Scotland by providing the necessary funding to enable the continuation of residential care services in every residential home in Scotland that is subject to closure by the providers. The usual rules apply—Mr Vettraino has three minutes to speak, then committee members will ask questions.

Ross J Vettraino (Leslie House 21 Group): When notice was given of the intention to close Leslie House, we, the petitioners, thought that the issue was local, and was simply about old, frail and demented people losing their home, their family life and the relationships within their home, and, in some cases, suffering a shortened life span as a consequence. As it happens, we were wrong. The issue is not local but national, and it occurs time and time again throughout Scotland. It is not just about people losing their homes, but about the Church of Scotland—the second largest care provider in the country—and other smaller care providers, none of which is democratically elected, being in a position to take executive decisions that significantly impinge on the social fabric of Scotland by continuing the on-going reduction in the number of residential care places, with the knock-on effect of bedblocking, thereby causing longer waiting lists and the resultant deterioration in the Scottish health service.

The issue is about Scottish local authorities and joint community care plans identifying significant increases in older populations, but making no provision whatever to increase the number of residential places, and seeking to justify that profound omission by saying that the focus is on keeping people in their homes for as long as possible. The authorities do that in the full knowledge that, in most cases, there is a limit to the length of time for which someone in their frailty can continue to occupy their home.

The issue is about the loss or proposed loss of a further 360 residential places in Scotland since April last year. It is about care providers who have closed facilities and who claim that the reason is that there is insufficient funding to make continued provision viable. Therefore, it is about insufficient funding. No matter what it costs to care for the elderly, society must meet that cost. We would all do well to remember that each of us aspires to be old.

The issue is about the elderly having needs and rights and local authorities such as Fife Council taking no steps to determine what those needs are. It is about public authorities and care providers having a duty to work together, although they are not doing so. It is about the old, the frail and the elderly—most of whom cannot speak for themselves and all of whom are in the winter of their lives—having the right to life, to be free from degrading and inhuman treatment and to enjoy their home, family and relationships. They have those rights under articles 1, 2, 3 and 8 of the European convention on human rights. If the care providers get their way, many people who are more than 90 will be evicted from the home in which they have lived, in some cases, for as long as 15 years.

The issue is about public authorities having a statutory duty under the Human Rights Act 1998 to protect individuals' rights. The Scottish Parliament and the Scottish Executive are such public authorities. We, the petitioners, believe that it is time for Parliament to act and to fulfil its duty under the 1998 act. The Parliament also has a general duty to maintain and improve the Scottish health service by arresting the on-going closure of residential homes, including Leslie House—which is a good local example of a national problem—by making the necessary funding available without delay.

We, the petitioners, ask the committee to grant the requests in our petition, as detailed in the penultimate paragraph.

Tricia Marwick: I have known Ross Vettraino for some months. The people of the Leslie House 21 Group are good people who want the best for their elderly relatives, but, thanks to the high-handed action of the Church of Scotland, a home

to many elderly and frail people will be closed. The coincidence that we are meeting in the church's assembly hall is not lost on any of us. The church refuses to continue the home and, even though Fife has big problems with bedblocking, Fife Council is not willing to take over the running of the home. Various means have been suggested to try to remove elderly people from their homes.

We must recognise that the problem does not relate only to Fife and to Leslie House, but that it is replicated throughout Scotland and that it will get worse because of the so-called funding crisis. It is timely that Ross Vettraino and the Leslie House 21 Group have lodged the petition, because we must consider present and future problems and force the Executive to take action.

Helen Eadie: I do not recognise the picture that Ross Vettraino paints of Fife Council or the Church of Scotland's board of social responsibility. My experience of both those organisations is entirely different. Fife Council has received awards for its work on identifying its citizens' needs, particularly those who are frail and elderly.

We all recognise that it costs fixed sums of money to run any establishment. In the past few weeks, MSPs across the Parliament have been provided with notice of an upcoming conference on the issue of how to provide care as a mutual option on a co-operative basis. That has been done successfully in England and America and it is suggested that that model be transferred to Scotland. Has your group considered that option?

11:15

Ross J Vettraino: No, we have tried only to persuade the Church of Scotland, Fife Council and the Minister for Health and Community Care to do something about a local problem. However, I am here today to talk about not the local problem of Leslie House, but a national issue. No matter how the money is raised—whether by co-operative means or not—the fact of the matter is that money must be raised. It does not matter what the cost of caring for our elderly is; the cost must be met by each and every one of us.

I am glad that your experiences with the Church of Scotland have been better than mine. I will outline briefly what my experiences have been. The Church of Scotland announced its intention to close Leslie House, without any consultation—indeed, some of the relatives found out through the media that their mums and dads were going to lose their home. We asked for an assessment of the impact that the closure might have on the residents only to be told that no such assessment had been done—the decision to close Leslie House had been taken without giving any thought to the effect that that would have on the residents.

Helen Eadie: Do you recognise that, across the world, there are something like 750 million co-operatives that have used the mutual option as a way forward? I should declare an interest, as I am a sponsored member of the Co-operative Party and believe that society should consider using the mutual option more. As you point out, rightly, we recognise that there is a cost involved in caring for elderly people but we have traditionally looked to the state alone to provide that money. Do you accept that there are other models? Is your mind open to being party to that kind of discussion?

Ross J Vettrano: There might be many ways by which the money could be made available. It would be for the Scottish Parliament to decide which would be the best way. The Scottish Parliament represents society and this is society's problem. I therefore expect the Scottish Parliament to assess the best way in which to raise the money.

Helen Eadie: Would you be willing to undertake such a scheme as I am suggesting as part of a pilot scheme in Fife?

Ross J Vettrano: There is nothing that I will not do to try to solve this national problem.

Phil Gallie: I agree that this is a national problem.

You will recall the time when community care was the in thing for authorities to sign up to. Do you believe that the imposition of community care and the importance that that policy placed on keeping people in the community has done the care homes a great disservice?

Ross J Vettrano: I think that we should support the principle of letting people stay in their own homes for as long as possible. None of us wants to leave our home and, given the choice, I am sure that we would all want to die in our own home. However, the hard fact is that, because people live longer now, more and more people are unable to be supported in their own home and they need care, regardless of whether that care is in the community or in a residential home. The fact that someone is in a home does not mean that they cannot be part of the community any more; the community can go and visit them. We visit the care home and I am sure that people visit their relatives in care homes throughout the country.

I agree that we should keep people in their homes for as long as possible, but we must remember that there is a limit to how long that will be possible for. That means that we will still need residential places.

Fife estimates that, by 2010, there will be 23 per cent more people over 85 than there are now—I had to check the figure because I thought that it was a misprint. However, there is no provision in

Fife's joint community care plan for additional residential places.

Phil Gallie: Is it not the case that the numbers of residential and nursing home places have gone down over recent years?

Ross J Vettrano: The number of residential places has gone down. It is going down all the time, which is why the problem is becoming acute.

Phil Gallie: The Church of Scotland does not stand alone with respect to financial pressures. I have some sympathy with the fact that it cannot maintain the homes that it owns, but that could also be said about the private residential and nursing care sector, where there have been many recent home closures.

The issue comes back to community care and, perhaps, a problem that local authorities have in meeting their commitments. People recognise that there is a need for residential care, but local authorities do not have adequate money to provide it. Would it be better if we considered the financial provision from a health viewpoint and gave responsibility for the budget requirement to one department, as opposed to a mix of social service and health service agencies?

Ross J Vettrano: Yes. It does not matter where the money comes from. It is not acceptable for local authorities to say that they do not have any money. A local authority cannot state that it intends to abandon its frail and elderly because it does not have any money. That option is not available; society must have the money. How the money is provided—whether it comes from a local authority budget or a health service budget—is for the Parliament to determine. The final analysis is that the money must be made available.

Nobody wants or expects the Church of Scotland, or any voluntary or charitable organisation, to subsidise the cost of caring for the elderly. It is our responsibility. The Church of Scotland runs homes not for commercial reasons, but because it is a Christian organisation, which seeks to provide a useful service.

I am persuaded that private care providers are in the business for commercial reasons. If there were no commercial gain, they would not provide the service. That does not make them wrong, but it means that we must ensure that finance is available to enable the private, public and voluntary sectors to provide the service that each of us needs.

Phil Gallie: Parliament acted by introducing free care for the elderly. How has that worked?

Ross J Vettrano: I assume that Mr Gallie is referring to free personal care. It is my understanding that the provision of a place in a residential home does not come into the category

of personal care. Personal care provides someone with help to meet his or her personal needs. For example, people are given help with washing and dressing. Free personal care does not cover the running costs of a residential home. Only a small percentage of the running costs of a residential home are attributed to the measures that are included in the definition of personal care.

Phil Gallie: I would argue differently, but I accept your point.

Ross J Vettraino: My understanding may be wrong; please forgive me if it is. However, I know that there is insufficient money to provide residential care places.

Rhoda Grant: Your petition states that although Leslie House has 28 places, there are only 11 residents. Is that because people are no longer placed there because there is concern that the home may close down, or was that part of the ongoing problem that led to the decision on closure being made?

Ross J Vettraino: There are now 10 residents. There were 11 when I wrote the petition, but a resident died just before Christmas. There are 18 empty rooms, but that is because Fife Council is not referring anyone to the home because the Church of Scotland is proposing to close it and will not take anyone in. It could, however, accept people for respite care, because that would not be a long-term commitment; the longest stay would be two to three weeks. However, the Church of Scotland chooses to keep 18 rooms empty and is, therefore, suffering lost income of 18 times £310 a week. It is costing the Church of Scotland over £250,000 a year to keep the rooms empty.

Rhoda Grant: Were there empty rooms when the Church of Scotland decided to close the home, or was the home fully occupied but still making a loss?

Ross J Vettraino: Only 21 rooms were occupied when the Church of Scotland made its decision. The Church of Scotland had taken a conscious decision to reduce the population of Leslie House to meet the ratio of staff to residents that is required by the care commission.

Dorothy-Grace Elder: You said that the number of residents is down to 10. The letter that you sent in November referred to 12 residents, so there has been one death, if not two. Must not the remaining residents be under considerable strain?

Ross J Vettraino: I am not sure that they are, as most of them are severely demented. My mother, for example, does not know what is happening. She does not realise that someone is trying to evict her from her home. For the past three or four years she has lived with terrible fear, which she expresses by saying, "I am terrified that

someone will put me away." We reassure her as best we can and tell her that that will not happen; sadly, because of her dementia, she forgets the reassurances that we give but not her initial fear. The sad truth now is that someone wants to get her out of the home and to put her away, so that they can empty the home. If I said that to my mother, it would upset her—she is not so demented that she would not understand that. We keep that sort of thing quiet.

Dorothy-Grace Elder: However, the relatives—many of whom are not young—understand what is happening. Do you know what the Church of Scotland intends to do with the building? Does it intend to sell it?

Ross J Vettraino: We have asked the Church of Scotland a number of times what it intends to do, but we have always been told that it does not know. In July, the church told us that it had not had the home valued. I leave members to make up their minds about whether the church knows the value of the place. I suspect that it wants to sell it.

Dorothy-Grace Elder: The home has 28 rooms.

Ross J Vettraino: Yes.

Dorothy-Grace Elder: If it were put on the market, it would be regarded as a substantial property. Am I correct to assume from the literature that we have received that the annual deficit is £80,000?

Ross J Vettraino: No—I am sorry if I have given that impression. In April, the Church of Scotland said that the projected operational loss for the current financial year was £154,000.

Dorothy-Grace Elder: Has the church applied to the council and other sources to make up the deficit?

Ross J Vettraino: I believe that it has. I recall clearly the church saying that a national agreement had been struck on the money that is available to care providers, but the terms of that agreement were not being met. The Convention of Scottish Local Authorities said the opposite. I did not want to become involved in the argument about who was right and who was wrong. I did not want the focus to be moved from the real problem—the fact that there is insufficient money to provide the number of residential places that Scotland needs.

The Convener: Has any work been done on the number of residential places that are scheduled to be lost across Scotland? You mentioned 92, but there must be more than that. We have received other petitions—for example, from Troon—on this issue.

Ross J Vettraiño: As recently as the week before last, the care commission wrote to me on this issue. Excluding Leslie House, seven homes are scheduled for closure. That means that 140 places will be lost—or 168, if we include Leslie House. There are probably others, as homes are being threatened with closure daily. St Meddan's home in Troon is not mentioned on the list that I received, but I know that South Ayrshire Council would like to close it. Happily, the relatives of residents there have adopted the same stance that we have adopted in Leslie, so the council may find it difficult to close the home.

The Convener: If Leslie House is closed, what does Fife Council propose to do with the 10 remaining residents?

Ross J Vettraiño: I do not know. The Church of Scotland has given the care commission notice that it will surrender its registration with effect from 28 March and has told the staff of Leslie House that they will not be employed after that date. I do not know what the church intends to do. I have no idea whether it intends to shut off the power and to lock the 10 old ladies in the building.

Fife Council has a statutory duty to provide the care that is required if the Church of Scotland walks away from Leslie House. However, that is only my understanding—I cannot be sure of that.

The Convener: I am sure that that is the case.

Tricia Marwick: I have a point of information for Dorothy-Grace Elder. Leslie House is a very historic building. It was given to the Church of Scotland to hold in trust for the community of Fife as long as there is a need for it. If the Church of Scotland attempts to sell Leslie House at a big profit, it may find that the trust deed will be challenged.

Dorothy-Grace Elder: I have come across a reference to the kind benefactor. It might be possible to mount a legal challenge to any attempt to sell Leslie House—the terms of the benefactor's will might encompass that. However, I have known people try to get round such conditions by taking cases to the Court of Session 50 years after a benefactor has kindly helped the community.

The Convener: To be fair, the petition is not specifically about Leslie House; it raises the issue of the closure of homes such as Leslie House throughout Scotland. As Mr Vettraiño mentioned, there is another petition on much the same issue—PE551 from the supporters of St Meddan's Court in Troon. We have already written to the Executive on the back of PE551, asking it to comment on the adequacy of local authority provision of residential care for the elderly and to provide an indication of whether supply currently meets demand.

First, despite that correspondence, I think that we should write to the Executive again, asking it for details of how it plans to meet the apparent shortfall in residential care home places, given the recent trend of closures of charitable and voluntary sector-operated homes in Scotland.

Secondly, we will ask the Executive to confirm whether the Executive and local authority policy to ensure that elderly people can remain in their own homes for as long as possible is running effectively. It appears that there might be a shortfall in the number of places that are available, and we can ask the Executive to comment specifically on what happens under such circumstances.

Finally, we will ask whether the Executive would be willing to provide financial assistance to ensure that residential homes that are currently under threat can remain operational where there is a demand for their places.

When we receive the Executive's response to PE576, the suggestion is that we consider it along with the response to PE551, as the two petitions raise similar issues about a shortfall in residential places.

11:30

Helen Eadie: It would be helpful if we also asked the Convention of Scottish Local Authorities for its view. COSLA has undertaken work on the matter. The other question that needs to be explored is how many new places have been made available throughout Fife. Although some establishments have been closed, some are being opened. There is an organisation called Henderson House in my constituency. It is a care home for the elderly, and is part of a chain.

There are a number of successful operators in the world of caring for the elderly, and we need to bear in mind the number of new businesses that come on board as well as the number of businesses and Church of Scotland or voluntary organisation establishments that do not manage to continue their work. We need to keep a sense of perspective and bear the wider situation in mind. We should focus not only on the closures, but on the new entrants into the care system.

The Convener: It has been whispered into my ear that there could be a problem getting such information from COSLA, as it often finds it difficult to get it. We could still ask it for the information that it holds on the number of closures and new places being opened up, and on the balance between supply and demand. If COSLA does not have the information, we need to find out how best to get it from other sources that it might suggest. As Steve Farrell has reminded me, COSLA sometimes responds by saying, "We don't know. That information is held by individual councils."

Helen Eadie: I met the chief executive of the Scottish Commission for the Regulation of Care about issues around disabled people in the community in Fife. The care commission's chief executive and director of operations might be able to help us with some of the information.

The Convener: We can certainly try to obtain the information from the care commission.

Phil Gallie: I am slightly concerned at the suggestion that our consideration of PE576 should run parallel to that of PE551, on St Meddan's Court in Troon. I remind members of the situation there. St Meddan's is a local authority home, and according to South Ayrshire Council's claim, its closure is to do with the Regulation of Care (Scotland) Act 2001, which calls for improved standards in the home. I am not sure whether that is also a factor for Leslie House. There might well be a wider concern about the increased costs attached to the changes.

In relation to St Meddan's, we asked whether the local authority was interpreting the regulations wrongly. I am concerned that we have not yet received an answer on that. It is an important issue.

Aside from that, addressing the wider question is fine with me.

The Convener: It seems that we have, in fact, received a response from the Executive on the petition relating to St Meddan's Court. It will be on the agenda for the next meeting. It is accepted that petitions PE551 and PE576 raise different points, but the general issue of the availability of residential places for the elderly throughout Scotland relates to both petitions. It might well be that we should leave consideration of the St Meddan's petition until we receive the response to PE576 and then consider both the responses together. They both relate to the same problem of the availability of care home places for the elderly.

Phil Gallie: That is one of my concerns. I would not like the response to the St Meddan's petition to be held back pending action on PE576. I want the St Meddan's response to be considered.

The Convener: The response to the St Meddan's Court petition will be on the agenda for the committee's next meeting. We will discuss it then. I suggest that we write to the Executive to raise questions about petition PE576 and that we consider it further when we get the response.

Dorothy-Grace Elder: Although the Church of Scotland is under a big question mark in this case and others, we cannot forget that the churches have done a huge job over the decades in running homes for the elderly. Could we consider writing to the Church of Scotland as a national body to inquire about its position on home closures? We

could also ask how many places will be lost through closures of Church of Scotland homes, whether the church is commissioning any new builds, which I doubt, and what its general view is on the whole crisis.

The Convener: I do not see any reason why we cannot do that.

Dorothy-Grace Elder: We could also ask the Church of Scotland what it does with the money from the sale of properties.

The Convener: We could certainly ask about its intentions for Leslie House.

I thank Mr Vettrano for his evidence. We will keep you fully informed of the Scottish Executive's response and of any further action that will be taken in the wake of that response.

Autism (Treatment) (PE577)

The Convener: PE577 is from Mr Steve Law, on behalf of Action Against Autism, and calls on the Parliament to urge the Executive to take urgent steps to set up an autism-specific treatment facility at a Scottish hospital. Mr Law will speak to the petition, along with Dr Gordon Bell, Dr John March and Dr Ken Aitken.

On behalf of the committee, I welcome Mr Law and thank him for his patience in sitting through the previous three petitions. You now have your chance. You have three minutes to make an opening presentation, which will be followed by questions.

Steve Law (Action Against Autism): Thank you for the opportunity to present our petition. My colleagues, Dr Gordon Bell and Dr John March, have been conducting research into the medical problems associated with autism for the past few years and have been sharing their results with other experts across the world. Dr Ken Aitken is a clinical neuropsychologist with 25 years' experience of working with autism and is known throughout the world as a leading expert on the subject.

I am father of Matthew and Catherine aged 10. Our son, Matthew is severely autistic. Since his diagnosis in 1996, I have been campaigning for an improvement in autism resources. I am also a director of Action Against Autism and vice-convenor of the cross-party group on autistic spectrum disorders.

As well as being severely autistic, Matthew has complex learning difficulties. He has no speech and no other means of visible communication. He also has medical problems, some of which we have addressed through private tests in the United States of America. Fortunately, I know some of the experts who are present, and we have been able

to implement a programme of intervention. However, Matthew has several other problems that remain unresolved. He has gained no weight at all in nearly four years. He has also started to self-injure, including smashing his head through his bedroom wall and, more recently, he put his head through his bedroom window.

I use our son as an example, but I could easily have chosen from hundreds of thousands of other autistic children throughout Britain and Scotland. The epidemic of autism that we now experience is not down to better recognition, as the committee may have read. Recent major research studies have concluded that the large increase is caused by some environmental or biological factor. Although as many as 1 in 150 children is being diagnosed as autistic, parents in Scotland still have no place to take their children to be examined properly.

Many of those children are living their lives in pain and cannot get treatment. They have no speech and so cannot explain to their parents what is wrong with them. That results in self-injurious behaviour and other problems.

That America leads the way in autism treatment centres is not unexpected. There are clinics throughout the USA, including in New Jersey, Massachusetts and Florida. Their treatment of children's quite severe medical problems often results in other major benefits, which are associated with their improving health. Getting autistic children to recover their speech—if their speech can be recovered—can take years of education. My son lost his speech early and still has none. Treating medical problems at the outset, when they are first diagnosed, would not only remove the pain that children often suffer, but could improve their skills. There is a direct correlation in that respect.

I will finish by telling the committee about a mother who was fortunate enough to have her son referred to the clinic in New Jersey. Before visiting the clinic, her son, Peter, had quite severe medical problems and, typically, behavioural problems and no speech. After investigation, he was put on a special diet, some easily available supplements and medication that is widely available. His mother said that Peter began to form sentences two weeks later.

The Convener: Lloyd Quinan has now returned to the meeting. He is the convener of the Scottish Parliament's cross-party group on autistic spectrum disorder and wants to speak in support of the petition.

Mr Lloyd Quinan (West of Scotland) (SNP): I simply want to make it clear to the committee that the cross-party group on autistic spectrum disorder—of which Steve Law is the vice-

convener—fully supports the petition. It has simple reasons for doing so. It has been extremely difficult for parents of children with what is now called regressive autism to get proper intervention. Principally, they must use private medical facilities at great expense in order to have the cutting-edge techniques that would be provided if the petition's proposals were adopted. Some medical work has been done, but only as a result of a class action at the Old Bailey in London. Finance was made available to parents for tests.

Members of the cross-party group who have been able to share the work that Dr Ken Aitken, Dr John March and Dr Gordon Bell have done privately—I do not mean work in private health care, but private work with parents with whom they have become friendly—have made it clear that the work has improved enormously the lives of a number of children. It has become clear to the cross-party group that, if there were a centre of the kind that the petition proposes, we would be able to address what is now an epidemic—certainly in respect of regressive autism.

It is important to remind the committee that, as well as one parent who has an extremely difficult situation to deal with, three of the world's leading experts in the area are here in the chamber. Many people have heard me say many times in the chamber that we have the expertise in this country to lead the world and that things should not be left to the USA.

The United States Food and Drug Administration's decision to cease the use of certain vaccines that contain a mercury-based preservative is an acknowledgement of the work that has been done by American colleagues of the three gentlemen who are in the chamber today. I do not seek to open up issues relating to vaccination, but the decision opens up issues about medicines that are used in the western world that are damaging our children. Whether such medicines are directly responsible for autism or whether, as Steve Law said, autism is a product of environmental and other factors, there is a clear lesson to be learned from the work done in the USA and by the three men who are here today. If there were a centre such as the one that the petition proposes, we could not just improve the lives of children, parents and carers of children, but begin to examine cures. I urge the committee to support the petition.

The Convener: Thank you. Perhaps I should declare an interest. I am a member of the cross-party group on autism although I do not hold any office.

I now open up the meeting to questions from the committee. Anyone who wants to answer a question, should just pipe up, please; do not feel shy.

Helen Eadie: Good morning, gentlemen, and welcome to the meeting. I visited the centre for autism at Cowdenbeath in my constituency of Dunfermline East. The visit was organised by Kay Runciman who is involved in the cross-party group.

I was impressed when I read your submission and wanted to ask you to expand further, but as that was in the wee small hours of this morning, I was not able to phone Steve Farrell to ask him for the article that is mentioned in the note on the petition. The article is from Harvard University and Massachusetts general hospital and relates to a study to establish a medical protocol for the treatment of autism. Could someone say something about the article and how it impacts on the treatment of autism? Does it relate to what you were saying about diet and certain medical treatment?

11:45

Dr Ken Aitken (Action Against Autism): I have not considered the protocol in detail or recently. Fifteen years ago, autism was said to be a genetic disorder with a stable rate in the population: it affected 4.5 out of every 10,000 children born. It was a relatively infrequent problem but it required additional medical support for families. Commonly, autistic children developed epilepsy and had a variety of other problems that required medical help.

In the past 15 years, the rate of autism has gone up markedly. The Medical Research Council research review that reported at the beginning of last year said that autistic spectrum disorder affects one in 166 children. We are now talking about a rate of autism that is almost as high as the rate of schizophrenia, which affects approximately one in 100 people in the population.

The level of support for people with schizophrenia is huge. The majority of patients in adult psychiatric facilities in Scotland have schizophrenia. The level of facilities provided for people who have autistic spectrum disorder is abysmal. The clinicians working in the field are very good but support and medical investigation and intervention are limited.

The size of the autistic population means that something different is happening. If the rate was stable, we would be looking for the genes that cause autism and seeking to give proper genetic counselling to people who carry those genes to limit the number of children who are born with autistic spectrum disorder. However, we are now saying that it cannot be purely genetic; something is happening that is causing the rise in the rate of autism.

There has been a rearguard action by some working in psychiatry who say that that is not really

happening. They say that criteria are changing, we are broadening the group of children that we are diagnosing and we are diagnosing earlier. A year ago in the *Journal of the American Medical Association*, Professor Fombonne, who has just moved to McGill University in Montreal, was saying that it is all smoke and mirrors. He said that we are not seeing a rise in the rate of autism but have changed what we are talking about. On 1 January, his editorial in JAMA went along with the recent study from Atlanta that showed a huge rise in the rate of autism and which says that there are at least four times as many children with autism now as there were 15 years ago. There is a true rise in the numbers.

We should consider the problems that autistic kids have. Far more of them have immune difficulties. It is almost impossible to get immunological testing done on autistic children in Scotland. Far more of them have gastrointestinal problems. All the statistics were highlighted in the Medical Research Council review. Research funding is coming on-stream so that the issue can be considered nationally, but it will be five years before anything is done based on the findings of that research. We need to provide clinical investigation for the huge rise in the number of children, in particular—we do not find the same rate among adults—who are now presenting to clinical services.

The Convener: A question has occurred to me. As well as being in the cross-party group on autistic spectrum disorder, I am the convener of the cross-party group in the Scottish Parliament on ME. Both conditions seem to have many of the same problems. One of the stumbling blocks we have come up against is the reluctance of the Executive to have a centre of excellence, which is essentially what you are calling for. It says that individual health board areas should be left to make provision. What is your reaction to that?

Dr Aitken: The skills need to be centralised because we cannot expect local clinical services to come up to speed rapidly. Over the past couple of years, I have been reviewing medical case notes from about 800 families across the United Kingdom. The type of clinical investigation that is carried out on children with autism varies dramatically from place to place. That is no less true in Scotland than it is south of the border. An autistic child in Shetland will be seen by a clinician from Aberdeen, who comes up once every six months. Shetland now has about 19 children who have been given the psychiatric diagnosis, but very few of them have received the clinical investigations and tests that our petition talks about. In Highland region, access to resources is similarly limited. In part, that has been due to a staffing issue, but Highland has not had good access to services historically.

The way in which services have developed in different parts of the country has dictated different types of access. In Lothian, many children are seen through neurology services, which provide some of the investigations that we are talking about. In Glasgow, services historically developed through psychiatry. The Scottish centre for autism is an excellent example of its type, as it provides good psychiatric diagnosis and good early intervention, such as play activities for children, but it provides nothing in terms of medical investigation. There needs to be consistent access to services so that, whether a child is born in Perth, Aberdeen, Edinburgh or Inverness, the same clinical and diagnostic work is available.

Unless research uses the scales that exist, people will not be able to publish the results of their research to inform other people. If people do not use the autism diagnostic interview to provide the diagnosis, their research will not be published in any of the international journals. I and two or three other clinicians in Scotland have been trying to use the interview, but most places do not use it. That means that, even when the research that is carried out shows great results, it will not be accepted by anybody else. We need standardisation before we can apply meaningful research and improve the help that we give to families.

The Medical Research Council will put £7.75 million into research over the next five years. It would be tragic if that money was wasted because the clinicians on the ground were not doing the appropriate investigation and not getting the clinical samples together to do the research.

Helen Eadie: America has been mentioned quite a few times, and some states in particular, including Florida. When I was on holiday in Florida last year, I noticed as I travelled around that, instead of big general hospitals, there tended to be centres for specific complaints that patients might have. Has particular path-finding research been done in America that would be useful for Scotland to consider? Should that be part of our centre of excellence?

Dr John March (Action Against Autism): The question about path-finding research in America is quite interesting. One of the ironies is that the breakthrough research is being done in the UK, but it is not being supported. The current research in the UK tends to be funded by the legal case. The problem with that is that all the data are anonymised. In many respects, the work in the USA follows the lead that was set by work that was done here. The UK provides no funding for research, so it is being done abroad.

Any results that are obtained from much of the work that is currently being done in the UK cannot be given to parents easily because the research is

funded by the class action. Currently, the only way in which the tests can be done on children in the United Kingdom is if they have autism and are funded by the legal case. It is difficult for people to have the tests done even if they want to have them done privately. For example, at the moment the tests that we do are funded through the Legal Services Commission, so there is absolutely no way that we can offer them to private patients.

It is a great irony that most of the research started in the UK but is now being developed abroad. It would be absolutely superb if this country had a centre of excellence to deal with both research and possible treatments. I hope that that will come from our petition.

Helen Eadie: Another thing that I was doing last night was researching the House of Commons. One question that occurs to me is whether the House of Commons has a cross-party working group on autism and what that group has done. Has that group made progress that could perhaps be replicated in Scotland?

Dr Gordon Bell (Action Against Autism): There is a cross-party group at Westminster, but although it has maintained a focus on the issue—as has our cross-party group—it has made no further gains in investigative research as far as I am aware.

I shall return to Dr March's point about initiatives coming from America. Based on protocols that are available in America and in the UK, Dr Aitken and I drew up a possible working protocol for investigating children in Scotland. Two years ago, we approached the then Deputy Minister for Health and Community Care—now the Minister for Health and Community Care—to speak to him about our work. Our reason for meeting him was not to further our careers, but to fast-track funding for the investigation of children with autism. I cannot stress enough that if children with autism are to have a good prognosis, they must be given treatment as early as possible, and by that I mean between the ages of two and a half and four. It is not beyond the realms of possibility to treat children who are older than that, but the outcome is much better if treatment begins at a younger age.

The delays that we have experienced in trying to influence the minister mean that many children who could be treated are slipping through the net. It is important that things are put in place and that we have a centre of excellence as soon as possible.

The Convener: There have been several references this morning to the class action that is before the courts. Am I to understand that, as a result of that action, the national health service is required to give the children who are subject to the

action clinical testing, which is not available to those who are not subject to it?

Dr March: The testing that is on-going has been arranged through the solicitors and, I think, is being paid for by the Legal Services Commission. I do not know whether the results are given back to the children. I do not think that they would be, as all the results are anonymised as part of the legal case. It is something of an irony that data from the tests will be available to the people pursuing the case but probably not to the children themselves. We are carrying out an analysis of urine to see whether children have bioactive opioid peptides. If a certain set of peptides is detected in a child, it might suggest that the child should be put on a particular diet, but we cannot give that data back to the child's parents.

The Convener: So the on-going publicly funded testing is purely for the legal case and cannot be applied beyond finding a resolution in the courts.

Dr March: Yes; it is not NHS testing.

The Convener: I think that it was Dr Aitken who referred to the fact that the Medical Research Council is funding £7.5 million of research in the future. Is that the kind of funding for which Action Against Autism is calling?

Dr Aitken: The MRC research review contains a range of recommendations for further research, including for the type of work that Dr March described. The MRC has set up four pump-priming meetings to encourage people from research communities to apply for funds. Those applications will be considered and funding will be ring fenced using the normal MRC criteria to test whether research is adequate. I went to the first of those meetings just before Christmas and was sad to see that I was the only Scottish representative who attended. Two people from Scotland made presentations, one of whom is a professor in Edinburgh, but I was the only one invited to attend with a view to attracting funds.

We have Scottish Executive funding of £250,000 to match the £2.5 million offered by the Department of Health, but that is a relatively small amount of funding given the period over which it is to be considered. Although, the MRC has identified a number of research priorities, the funded proposals will not necessarily span all of those areas. Only three or four projects, on a limited number of topics, might end up being funded. Those projects will be ones that have been seen as important.

I think that it is more important for research to cover all the bases. Research literature has explored a range of different areas—immune-function problems, gastroenterological problems, and difficulties with the way in which the brain develops and the retina functions—but it is limited.

Far more research needs to be done, especially as the work done so far suggests that clinical benefit can accrue to children by exploring areas further.

The Convener: Surely that kind of research cannot go on unless it can be linked to clinical testing in the NHS. I understand that that is why you want the special centre.

12:00

Dr Aitken: Absolutely. I would like to see a centre that is similar to the medical investigation of neurodevelopmental disorders—MIND—institute, which was set up in Sacramento about three years ago.

The MIND institute was established in response to parental requests to the Californian Senate to establish a statewide facility for further research on the sorts of issues that are the subject of PE577. The California State Government has agreed to fund the institute in perpetuity to the tune of \$30 million per annum, a sum that is larger than the National Institutes of Health budget for autism research. The set-up at the MIND institute allows clinicians to undertake practical work with families. Piggybacked on to that is the clinical research that is required if we are to get answers to many of the questions that we are asking today.

Steve Law: It is also important to note that taking autistic children into a normal hospital ward is extremely stressful for the child and the parent. My son has been to the sick kids hospital once and I would not take him back there. As he is hypersensitive, certain noises and crowded places cause great problems for him. That is quite normal for an autistic child, but he gets extremely stressed out in such situations. We had to wait for 25 minutes, at which point I almost took him out of the hospital because he was lying on the floor screaming.

Doctors who have not had a great deal of experience of autism can find it difficult to deal with children who have no speech. They are used to being able to ask children questions such as, "How do you feel?" and, "Does that hurt?" My son has no speech and he would not even look at the doctor.

We need people who understand the situation fully and they are extremely difficult to find in the current set-up in our major hospitals. We also need to have a treatment centre with a proper layout that has a calming atmosphere. The layout could include certain toys or television programmes that would engage our children fully. That would make a great deal of difference for the children, parents and doctors.

The Convener: The Executive's standard response is to say that it is setting up a managed

clinical network to handle the situation. Would that be appropriate in this case? That means that a network of doctors around the country who are qualified to deal with autism would handle cases in normal clinics. Is that the way forward?

Steve Law: I think that that would be more difficult. The circumstances for each child are different. I am not sure that it would be possible to get the expertise right across the country. I suggest that the expertise should initially be centred.

Ken Aitken mentioned the MIND institute, which started out quite small but has grown hugely. The issue is massive, but there is no reason why we should not get the ball rolling. Hundreds of children remain undiagnosed simply because there are not enough specialists to diagnose them. Current figures show that almost 2,000 children are affected, although I think that the figure is an underestimate.

The Convener: The petitioners are welcome to stay and listen to the committee's discussion about what to do with the petition. If members turn to the section of the paper in which the suggested action is set out, they will see that we have received other petitions that relate to autism, namely PE452 and PE538. The committee will shortly consider the Executive response to those petitions. It is suggested that we pass PE577 to the Executive, asking it to make its comments quickly so that we can handle the three petitions together.

Time is running out. We want to progress the petitions as far as we can before the committee structure comes to an end at the end of March. It is suggested that we ask the Executive whether it will consider establishing an autism-specific medical treatment facility at a Scottish hospital, as has been suggested by the petitioners. We could also ask the Executive to confirm whether it will commission further research into full metabolic screening, immunological testing, gastroenterological investigations and blood testing of autistic people, as has been suggested by the petitioners.

Rhoda Grant: The convener mentioned managed clinical networks. The two areas are not exclusive of each other. A managed clinical network is one way of passing on best practice to other clinicians. One of our problems is that people are dealing with the matter in different ways—even within health boards. It might be helpful to have an exchange of knowledge, experience and best practice.

The Convener: When we ask the Executive whether it will consider establishing a specific medical treatment facility, we can ask it whether that will be in addition to managed clinical networks or an alternative to them.

Rhoda Grant: We should make the point that they should not be exclusive and that both could work together.

The Convener: We can certainly make that point to the Executive.

The petition will be passed to the Health and Community Care Committee, for information only until we get the responses from the Executive.

I thank the petitioners for their attendance and for their patience, as they waited so long to get on stage. We will keep them informed of the responses as they come in.

Parental Alienation Syndrome (PE589)

The Convener: The next petition, PE589, is from Mr George McAuley, on behalf of the UK Men's Movement. It calls on the Parliament to take the necessary steps to recognise parental alienation syndrome and to develop early intervention strategies to prevent it. Members will be aware that we have already considered a number of petitions—PE413, PE438, PE465 and PE492—relating to issues surrounding parental alienation syndrome and that we accepted the Executive's position that parental alienation syndrome is not a sufficiently well-defined medical term to make its diagnosis certain or appropriate in legislation. We also accepted the Executive's view that it is confident that the judiciary is well aware of and takes account of behavioural issues that may be attributed to PAS when it reaches decisions involving children.

The petition raises a new dimension. The petitioner now argues that under the European convention on human rights case law, member states are required to ensure that child care authorities and courts under their direction and control are made aware of PAS and are provided with suitable training. George McAuley cites a case in Germany. However, members will see that the information that has been supplied in support of the petition, in paragraph 36 of the European Court of Human Rights judgment on page 6, states:

"The applicant concluded that the German authorities had violated their duty resulting from Article 8 of the Convention to protect citizens' human rights, in that they had failed, up to that point, to make the results of international research on the PAS known to the German youth authorities and family courts by providing them with suitable training."

That is the applicant's view; it is not necessarily the court's view. I suggest that we seek the legal advice of our advisers to clarify what the position of the European Court of Human Rights is before we consider the petition further. Is that acceptable?

Members indicated agreement.

Nursing Homes for the Elderly (Licensing) (PE590)

The Convener: The final new petition is PE590, from Mr Frank Harvey, on the licensing of nursing homes for the elderly. It relates to a newspaper article that he read about Grampian University Hospitals NHS Trust moving a number of convalescent elderly patients from Aberdeen royal infirmary to a tower block of flats in the area. Although the petitioner calls for an investigation of the licensing and regulation of nursing homes for the elderly, he is particularly concerned about the situation in Aberdeen where patients have been moved to a refurbished block of flats to convalesce. Members are reminded that it would be inappropriate for us to become involved in that particular case.

In any case, the Executive is clearly attempting to improve the standards and regulation of care services provided for the elderly through the Regulation of Care (Scotland) Act 2001, which set up the Scottish Commission for the Regulation of Care to oversee those issues.

The committee can agree to write to the Scottish Executive to seek its comments on the issues that are raised in the petition or we can conclude that the Commission for the Regulation of Care is already monitoring the situation and that there is therefore no cause for concern. It is a matter for us to decide what to do with the petition.

The standards of care that are available to elderly people, whether it be in the new accommodation or inside the hospital, are a matter for the Commission for the Regulation of Care, which applies the standards in both those sets of circumstances. The petitioners concerns are therefore not well founded, as the commission would intervene if the standards were not up to scratch. I suggest that we write to the petitioner to explain that. Is that agreed?

Rhoda Grant: The petitioner can come back to us.

The Convener: If anything happens at a later stage, the petitioner may submit a new petition.

Do members agree to the suggested course of action?

Members indicated agreement.

Current Petitions

Telecommunications Developments (Planning) (PE425)

The Convener: The first current petition for consideration is PE425, from Anne-Marie Glashan. The petition calls for revised guidelines for the siting of mobile phone masts. The committee undertook to seek the views of the Transport and the Environment Committee on the petition. That committee has indicated that it intends to carry out a brief review of developments since the new permitted development rights for telecommunications were introduced in July 2001, and that it would welcome referral of the petition, so that the petition can be taken into account in that inquiry. It is suggested that we refer the petition formally to the Transport and the Environment Committee. Is that agreed?

Members indicated agreement.

Gaelic Language (PE437)

"A Fresh Start for Gaelic" (PE540)

The Convener: The next two petitions concern "A Fresh Start for Gaelic" and the passing of a Gaelic language act. Mike Russell has introduced the Gaelic Language (Scotland) Bill, which is being considered by the Education, Culture and Sport Committee. We have received a response to the bill from the Minister for Tourism, Culture and Sport. From that response and from the written evidence that the Executive has submitted to the Education, Culture and Sport Committee, it is clear that the minister will not support the Gaelic Language (Scotland) Bill. Although the bill is being considered at stage 1, there is not much chance that it will be approved by the Parliament. In his written evidence, the minister sets out his reasons for not supporting the bill.

We could agree to refer the petitions to the Education, Culture and Sport Committee and ask it to take them into account as part of the consideration of the Gaelic Language (Scotland) Bill. However, because the petitions would then form part of the evidence gathered on the bill, it is likely that they would be disposed of at the end of the evidence-taking process. It is suggested that that would be an unsatisfactory outcome for both sets of petitioners.

It is suggested that we agree that I write to the convener of the Education, Culture and Sport Committee to ask that the existence of the petitions and their terms be acknowledged as part of the committee's consideration of the Gaelic Language (Scotland) Bill, even though the petitions have not been referred formally. We should also ask the minister to keep the Public

Petitions Committee informed of progress in consideration of the bill by the ministerial advisory group on Gaelic and in the development of bòrd Gàidhlig na h-Alba. Finally, we should keep the petitions open to allow us to monitor progress on the bill and the issues that I have outlined, and to consider whether further action should be taken at a later stage to address the petitioner's concerns.

Helen Eadie: The other day I read that if the Gaelic Language (Scotland) Bill is passed it will impose an obligation on every local authority in Scotland to have Gaelic taught in all local schools. I am not sure that I would be representing the views of my constituents if I accepted that as appropriate. I had sympathy with the views that were expressed to the committee by the petitioners, who argued that Gaelic should be available in parts of Scotland where people choose to have it. However, imposing Gaelic as a statutory obligation would not reflect the views of the people of my constituency, whom I represent.

The Convener: In the evidence that they have given to the Education, Culture and Sport Committee, local authorities have indicated that they oppose that aspect of the bill. That is one reason why the bill is not likely to receive the support of the committee or the Parliament. That is why we are suggesting an alternative way of dealing with the petitions. We should not refer them formally to the Education, Culture and Sport Committee, but should monitor progress on the bill and the steps that the Executive is taking to promote the Gaelic language. That would allow us to keep the petitions open and to hold them in reserve, so that we can intervene at a later stage if we regard that as justified.

John Farquhar Munro: We should accept the recommendations that were outlined earlier.

The Convener: Is that agreed?

Members *indicated agreement.*

Police Assaults (PE482)

The Convener: The next petition is PE482, on the compulsory blood testing of suspects. Members will recall that the petition was submitted by the Scottish Police Federation, which wants suspects or assailants who may have exposed police officers to a risk of infection to be required to submit to a blood test or tests that would also be made available to the police officer, should he so wish.

We have received a number of responses to the petition—from the Scottish Executive, from the Scottish Human Rights Centre and from the Association of British Insurers. The Executive indicates that ministers would need to consult on the complex issues that the petition raises before

committing themselves to introducing compulsory testing of suspects. In its response, the Scottish Human Rights Centre adopts a different position from that of the petitioners. The SHRC believes that the proposal does not strike a proportionate balance between the protection of the police and the individual's rights to privacy and non-discrimination.

It is suggested that a consultation by the Executive would allow a range of views on these matters to be taken into account. It is suggested that we agree to write back to the Executive with a strong recommendation that it carry out the proposed consultation. We should also suggest to the Executive that it keep the committee regularly updated on progress in relation to the time scale, scope and outcome of the consultation. We could defer any further action on the petition until the consultation process has been concluded. In the meantime, a copy of the petition and the responses to it should be sent to the clerks of the justice committees, and a copy of the responses should be sent to the petitioners.

12:15

Phil Gallie: I remind committee members that when this petition came to our attention, we were all particularly concerned following the presentation that was given and we all felt that action should be taken fairly urgently, as a real problem had been identified.

I find the input from the Scottish Human Rights Centre somewhat confusing. It says that there is no real need to look after the interests of the policeman. However, at the same time it suggests that there is a serious risk to the public if that policeman continues to carry out his everyday duties. If the SHRC thinks that there is a risk to the public if the guy continues in his work yet believes that he does not have any right to know what is wrong with him, that is a serious failure to recognise the seriousness of the issue.

I do not want to hear about further consultation on this matter. The Executive has a job to do in looking after our policemen, who are in the front line. They have to face problems daily and there is a growing problem in the community with respect to HIV. We should write back strongly to the Executive, asking for a raft of proposals to lead towards giving the policemen the right to have the information.

The Convener: I accept that. However, your concerns highlight the dilemma in which the Executive finds itself. It would have to ensure that any legislation that it introduced was watertight, but there are contradictory views on such legislation out there in society. You might not agree with the Scottish Human Rights Centre, but

it represents a body of opinion, and other groups will have different opinions from yours.

Phil Gallie: How can it say that it is okay for the policeman to face up to the problems but that he should be stopped from doing his job because he is a risk to the public?

The Convener: I am not defending that position; I am saying that the Executive—which has not said that it will not introduce legislation—would argue that, to get the bill right it would have to carry out the proper consultation process. If it did not do that, we would be the first to complain that we were whistling through legislation without listening to all the different points of view. Our role is to ensure that the Executive introduces legislation, but we must also ensure that it does that properly. It is only right that it takes time to consult and listen to different people's views on the issue. I do not think that we could recommend that it should not carry out such consultation.

Helen Eadie: You are right about consultation—we had a big row in the chamber last week about that issue. Nevertheless, Phil Gallie's point is valid: there has to be a sense of urgency about the Executive's action. The police who attended our committee discussion came from Fife. We all saw etched on their faces the extreme anxiety, upset and worry that they and their families felt at the potential suffering to which they were exposing themselves. The people in the front line are at great risk and we would be selling them short if we did not say that legislation should be introduced urgently. The issue should not be put on a back burner somewhere, but should be a priority. Our police are at the sharp end, and we need to be sure that we are not exposing them and their families to serious risk.

The Convener: I am happy to tell the Executive in the letter that we will write to it that it should carry out the consultation as a matter of urgency. We should also ask the Executive to provide us with a time scale for the completion of the consultation and its decision on the introduction of legislation.

Phil Gallie: I accept the fact that the Executive would not be doing its job if it did not ensure that everything that we did was absolutely in line with the law. If that is what consultation means, that is fine. However, consultation can also mean rounding up a whole raft of irrelevant bodies, waiting for three or four months until a response comes and then waiting for another three or four months while a report is put together on the consultation. That is what I want to avoid. However, given Helen Eadie's comment on the urgency of the matter, I accept that consultation is necessary simply to ensure that the Executive sticks within the law to produce something of value quickly, which will be upheld in our courts.

The Convener: We will ask the Executive for details of the time scale that it is thinking about and stress that we think that the matter is urgent and needs to be addressed quickly, probably by the Executive. Is that agreed?

Members indicated agreement.

Saltire (PE512)

The Convener: PE512, which is from Mr George Reid, calls on the Parliament to endorse the Ministry of Defence's 1989 guidance that defines the blue of the saltire as azure, and urges the Executive to publish guidance on the matter.

We have received a response from the Deputy First Minister on behalf of the Executive, a further letter from the petitioner and a letter from the Heraldry Society of Scotland. Members can see from the responses that the minister restated the Executive's view that it is not convinced that guidance is necessary or would be helpful. The Executive feels that the current position, which allows flexibility, is appropriate and satisfactory. The petitioner has provided a copy of a draft code that was produced by the St Andrew Society and the Saltire Society, which defines the saltire's colour and dimensions.

We have several alternatives to consider. The first is to accept the minister's response as reasonable and take no further action on the petition. The second is to establish whether a subject committee would be willing to consider the petition further. Members will remember that the Education, Culture and Sport Committee declined to consider a similar petition but, at that time, it believed that the matter was reserved to Westminster. The Lord Lyon has made it clear that the matter is devolved to the Scottish Parliament, so we could pass the petition to that committee, which might be prepared to reconsider the issue.

The third option is to suggest to the petitioner that the most realistic way to make progress is for organisations such as the St Andrew Society, the Saltire Society and the Heraldry Society of Scotland to agree and promote a voluntary code along the lines of those that have been submitted to the committee. That is open for discussion. I see our good friend at the back. Would Gil Paterson like to speak?

Mr Gil Paterson (Central Scotland) (SNP): I would not mind. I could help the committee somewhat by providing graphic illustrations of the problem with the Scottish flag's colour. From my business, I have gathered a small number of colours that are called azure. Mr Wallace suggests that the recommendation should remain that Scottish flag manufacturers should use azure. I will illustrate the problem of doing that if the colour is not given a reference number.

With the convener's indulgence, I will pass him a small number of colour references—I could have filled the place with them—which he can pass round. Members should take one colour reference—I have marked each azure with a small sticker—and put another colour reference on top of it, then see the difference. I have retained three reference guides to illustrate the problem. The first, light colour is called azure, as are the second and third colours. One colour is almost black, one is not quite white, but is very light, and one is right in the middle. We cannot ask a manufacturer to pick a colour by referring to azure.

The Convener: The Saltire Society, the St Andrew Society and the Heraldry Society have suggested Pantone 300 unglazed as azure.

Mr Paterson: I was about to come to that. The important aspect of colour is not the name that it is given. The colour can be called whatever we like—Scottish flag blue, azure blue, sky blue, egg blue or duck blue. What is important is attaching a number to the colour. I recommend that the committee should go along the lines of the draft code, which suggests Pantone 300. That is an internationally recognised standard. If you phone up a manufacturer in Brazil, India or any other country and say, "I want you to manufacture something in Pantone 300," they know exactly what you mean. We can attach a new name to it—we can call it Scottish flag blue or azure blue—but that is irrelevant. The important thing that the Executive must do is to attach a number. It is the Executive's responsibility. No one else has that responsibility.

I do not suggest that we take down and tear up flags because they do not match Pantone 300. I suggest that if anyone approaches the Scottish Executive and says, "We want to manufacture flags using the Scottish colours. What do we use?" the Executive should say, "Pantone 300." Whether it is called azure blue or sky blue is irrelevant. If we attach a number, we all win.

The Convener: We all take the point that Gil Paterson makes. It is very well made, understandable and clear. It is also clear that the Executive is aware of the matter and still does not believe that it has the responsibility to do anything about it. We must decide whether to pass the petition to the Education, Culture and Sport Committee for its consideration or to suggest that the different organisations come together to set up a voluntary code and seek to get it recognised.

In my opinion, we should pass the petition to the Education, Culture and Sport Committee. It should be given the opportunity to take the matter up. We would have to consult that committee. It previously declined the petition simply because it thought that the matter was reserved to Westminster. It clearly is not; it is a matter for the Scottish Parliament.

The Education, Culture and Sport Committee is the appropriate committee for the petition.

Phil Gallie: We are always talking about passing on issues to other committees and the difficulties that they have in coping with our petitions. Far be it from me to support Labour and Liberal Democrat ministers, but I honestly think that we are as well leaving the matter alone.

I accept Gil Paterson's point and the technical argument to a degree. However, the matter is too complicated. We are talking about 400 years of history. Why should we suddenly put a number on the colour now? We seem to have got along fine without one. I remind members—Gil Paterson will not like this point so much—that we would have to ensure that our blue matched the union flag. I do not know what the number is for the union flag.

The Convener: The colour of the union flag is a matter for the union Parliament, not this one. I suppose that we have no real views on that.

Mr Paterson: Perhaps I could help Phil Gallie. The colour of the saltire is irrelevant to the union flag. The union flag also has a standard. It has numbers attached to it. The union flag, the English flag, the American flag and every flag that I know have number references. We do not see different colours of American, English or union flags.

Phil Gallie: Does the union flag blue have a number?

Mr Paterson: Yes.

Phil Gallie: I suggest that we just take the union flag blue.

The Convener: It is for the Education, Culture and Sport Committee to make the ultimate decision, as it deals with such matters. I suggest that we ask that committee if it is interested in taking the petition. If it is not, we can come to some kind of decision.

Members indicated agreement.

Kincardine Bridge (Transport Schemes) (PE550)

The Convener: PE550 is the petition from Dennis Halligan on traffic management schemes for the eastern link road. We have various responses from the Executive. As the committee can see, the Executive responses, coupled with its recent announcement on the second river crossing at Kincardine, are positive. Genuine progress appears to be being made on the various transport development proposals. That will ultimately alleviate the problems that are highlighted in the petition.

In view of that, it is suggested that we agree to copy the Executive responses to the petitioner and

take no further action, although we may wish to pass copies of the responses to the clerk to the Transport and the Environment Committee for information. Is that agreed?

Members *indicated agreement.*

Planning Process (PE554)

The Convener: The next petition, from Mr Neil Henriksen, relates to improvements to the planning process. As the committee can see, we have a detailed response from the Executive. The petition is about how repeat planning applications are handled.

Although the Executive appears to be fairly content with the current statutory position with regard to repeat planning applications, it acknowledges that concerns exist. It also intends to determine the extent of the problem through discussions with planning authorities and consider what action, if any, is required to address it.

Although that proposal seems reasonable, the committee may wish to ask the Executive for details of the proposed time scale for its discussions with planning authorities. If the proposed time scale seems reasonable, the committee could consider deferring further action on the petition until the Executive has completed its discussions and reported back to the committee on any action that it intends to take. We can also pass a copy of the Executive response to the Transport and the Environment Committee for its information. Is that agreed?

Members *indicated agreement.*

Rail Transport (PE556)

The Convener: The final petition is PE556, from Mr Tom Thorburn, which calls on the Parliament to take the necessary steps to encourage the relevant agencies to work together to extend rail commuter services on the east coast main line and to seek a review of opportunities to restore stations across Scotland in order to reduce traffic congestion in major towns and cities. We have received responses from the Executive, the Strategic Rail Authority, Great North Eastern Railway, Scottish Borders Council and the south-east Scotland transport partnership. We also have an additional letter from the petitioner, and Euan Robson is here.

Euan Robson (Roxburgh and Berwickshire) (LD): I have not had a chance to read all the responses.

The Convener: Would you rather wait until you hear what the suggested action is?

Euan Robson: Yes.

12:30

The Convener: It is clear from the responses that the introduction of a new station at Reston would not be straightforward. The possible siting of a new freight loop at Reston by the Strategic Rail Authority does not appear to provide a suitable opportunity to build a new station, as the petitioners had hoped. In addition, there are real concerns that any new commuter services and stations on the east coast main line could have an adverse impact on existing passenger services. Several of the bodies that were consulted make the point that specific proposals such as those in the petition should be considered in the context of a wider review of rail provision.

The Executive makes it clear that it is for local authorities or the Strathclyde Passenger Transport Authority to identify opportunities for the re-opening of local railway stations and to proceed with any projects. Scottish Borders Council's willingness to move towards a feasibility study on a new station at Reston in partnership with other key stakeholders before the next ScotRail franchise seems to offer the most appropriate route for the petitioner.

It is suggested that we write to Scottish Borders Council to welcome its suggestion of conducting a feasibility study into the Reston proposal in advance of the next ScotRail franchise. We should urge the council to proceed with the study. We should also recommend to the petitioners that they develop contacts with Scottish Borders Council with a view to participating in the exercise. We should then take no further action on the petition.

Euan Robson: It is understandable that there has been caution from the agencies, including the statutory ones. It is disappointing to hear that the Strategic Rail Authority has concerns about the passing loops providing an opportunity for a station, which is not what it said previously, although it is fine if the SRA has changed its position.

The way to proceed is for Scottish Borders Council to become more enthusiastic about the project. I know that the council has received considerable criticism from Berwickshire as a result of its response to the committee. I am not sure whether the committee has the replaced response—I understand from a meeting with the council yesterday that it intended to revise and update its outlook on the issue. The council should take a more enthusiastic line about the proposal, although perhaps it is distracted by the reopening of the railway line to the central Borders. That would be understandable because the council might think that it cannot handle both projects at once, although I do not think that that is the case.

Whatever happens, reopening a station such as Reston will involve the co-operation of a number of bodies. One of the factors behind the petition was the frustrating fact that each authority that was approached passed the issue on to the next one, which then passed it on to the next and so on until the issue returned to the original authority. The issue went round in circles and nobody seemed to want to pick it up. That is why I am particularly appreciative of the care and attention that the committee has given to the subject. The committee has helped enormously in making bodies concentrate on the issues, rather than just handing the ticking parcel on to the next public body.

I do not foresee a station opening at Reston in the next two to three years, but I would be disappointed if the extension of passenger and commuter services down the east coast main line to Berwick-upon-Tweed has not been advanced in five years. If there is to be congestion charging in Edinburgh, it will be doubly important that public transport is available as an alternative to people taking their cars into the city centre.

I have said enough. I thank the committee for its forbearance in allowing me to attend a couple of meetings. I am grateful to the committee for its efforts and I think that the proposed course of action is sensible. If there are further developments, perhaps the committee will consider the matter again, although that might have to be the successor committee in the new session of Parliament. The pressure that the committee applied has been beneficial and I am grateful for it.

Helen Eadie: As the convener of the cross-party group on strategic rail services for Scotland, I inform members that we are having Mr Richard Bowker, chairman of the Strategic Rail Authority, to our February meeting. Members might wish to make a note of that meeting and take the opportunity to come along and raise the matter if they wish.

The Labour party's business manager has raised a further important issue, which comes up frequently and is relevant throughout Scotland: that of one authority passing the buck on to another. We must recognise that Scotland must be organised in a way that enables one lead authority to bring together all the other agencies that are stakeholders in any project that comes up. That way, the authority would be given the powers to drive the project forward. I return to my idea of the mutual option in the context of care homes, and to the co-operative ideology whereby people, together with mutual stakeholders, can fund a proposal.

In the case of Reston, it would not simply be down to Network Rail, Scottish Borders Council,

GNER or Virgin Trains to fund the station; every single stakeholder who uses that railway line would automatically become a stakeholder for that particular project. In my opinion, the matter should be in the hands of SESTRANS or of Scottish Borders Council. One of those bodies should become the project leader and get all the stakeholders signed up. The new station is a good idea, so let us find a solution. We do not know what the solution is yet—perhaps it is a loop—but the people want a station there and we want to encourage the use of railways, so let us try to put a station at Reston.

The Convener: That almost sounds like the subject of a new petition. It has been suggested that, when we write to Scottish Borders Council, welcoming its suggestion to conduct a feasibility study, we make it clear that we think that that should be done in advance of the next ScotRail franchise renewal, and that we urge the council to take the matter forward. We could perhaps also ask the council to keep us informed of the progress made towards that feasibility study, which would at least keep this committee involved. We should remember to ask the council to ensure that the study involves all the key stakeholders, as Helen Eadie suggested. Is that agreed?

Members indicated agreement.

Inadmissible Petitions

Thornwood Community Park (IP36)

The Convener: The next agenda item is inadmissible petitions. The first is from Mr David Polfreman on behalf of Friends of Thornwood, calling for the Parliament to hold a public inquiry into plans approved by Glasgow City Council to build luxury flats and a car park on a large part of Thornwood community park in Partick, Glasgow. The issues and actions that are called for in the petition are clearly related to a specific planning application. It would, of course, be inappropriate for the Parliament to intervene in such an individual planning application or to try to interfere in the decisions of a local authority. On that basis, it is recommended that the committee should agree that the petition is inadmissible.

However, we could suggest to the petitioners that they might wish to consider pursuing the matter further with Glasgow City Council or to submit a complaint to the Scottish public services ombudsman if there is any evidence of maladministration on the part of the local authority. Is that agreed?

Members indicated agreement.

House of Lords (Jurisdiction) (IP37)

The Convener: The second of the two inadmissible petitions before us this week is from Mr Joseph Rowan, who is calling for the Scottish Parliament to annul the House of Lords' jurisdiction over Scottish matters, which will allow the Court of Session to become the supreme civil court in Scotland. The petitioner believes that the Court of Session should be the highest civil court in Scotland, and is therefore looking for the removal of the right of appeal to the House of Lords regarding civil matters.

The Parliament's legal office has confirmed that the responsibility for any changes to the respective functions of the House of Lords or the Court of Session is reserved to the UK Parliament and is therefore outwith the competence of the Scottish Parliament. On that basis, it is recommended that the committee should agree that the petition is inadmissible. The committee may wish to suggest to the petitioner that he could pursue the matter further with the relevant UK Government minister, perhaps via his local member of Parliament. Is that agreed?

Members indicated agreement.

The Convener: That concludes today's business—thankfully. Is there any other competent business?

Phil Gallie: Yes. I suspect that this information might be contained in the Parliament's annual

report, but I would like to know how many petitions that have come in are still in limbo somewhere along the line.

The Convener: There are 159 petitions in the system that have not been concluded—101 with us and 58 with other committees of the Parliament.

Phil Gallie: How do reports on petitions normally pan out? We have reports here, but none of them is concluded as yet.

The Convener: All committees have been asked, if possible, to conclude as many petitions as they can before the end of March and the dissolution of this Parliament. If petitions are not concluded, they will be continued into the next Parliament and dealt with by the next Public Petitions Committee—they will be on the new committee's agenda when it convenes after the election.

Phil Gallie: I gave Steve Farrell notice of this point, but I raised a question with him about PE417 a week or two ago. He kindly produced a list of all the actions that had been taken on it. The number of actions is horrendous, but we have still not concluded it.

The Convener: The full paper that sets out the position on every petition is available to any member who wants it, but it is a bulky document and it would be difficult to circulate it to every member at every meeting. However, if members want to see it they should consult Steve Farrell, and they will be able to check on any petition at any stage in the Parliament.

Phil Gallie: Okay, thank you.

The Convener: I thank members for their attendance. That concludes the meeting.

Meeting closed at 12:41.

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