

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 28 January 2003  
(*Morning*)

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

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

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

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

---

# CONTENTS

Tuesday 28 January 2003

	Col.
<b>NEW PETITIONS</b> .....	2707
Food Supplements and Herbal Remedies (European Directives) (PE584) .....	2707
Detoxification Clinics (Legislation) (PE585) .....	2718
War in Iraq (PE586) .....	2725
Scottish Enterprise (PE587).....	2732
M80 Extension (PE588).....	2738
Hedgehogs (Relocation from Uist) (PE581) .....	2750
<b>CURRENT PETITIONS</b> .....	2767
Organic Waste Disposal (PE327) .....	2767
Scottish Transport Group Pension Funds (PE500) .....	2768
Elderly People (Residential and Respite Care) (PE551) .....	2770
Fishing Industry (PE582) .....	2775
<b>INADMISSIBLE PETITION</b> .....	2776
Mr Kenny Richey (IP38) .....	2776
<b>CONVENER'S REPORT</b> .....	2776

---

## PUBLIC PETITIONS COMMITTEE

### 2<sup>nd</sup> 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:

Alec Binnie

Bob Brown

Alan Corbett

Linda Corbett

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Susan Davies (Scottish Natural Heritage)

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab)

John Freebairn

Dr Sheila Gibson

Mr Adam Ingram (South of Scotland) (SNP)

Helen McDade

Shiona McDonald

John McKee

Elinor McKenzie (Scottish Coalition for Justice not War)  
Sam Mitchell (Cumbernauld Community Council)  
Cathy Peattie (Falkirk East) (Lab)  
Douglas Robison  
John Scott (Ayr) (Con)  
Michael Scott (Scottish Natural Heritage)  
Ian Smart  
Fiona Stewart (British Hedgehog Preservation Society)  
Tom Stewart (British Hedgehog Preservation Society)  
Dr Jeff Watson (Scottish Natural Heritage)  
Andrew Wilson (Central Scotland) (SNP)

**CLERK TO THE COMMITTEE**

Steve Farrell

**ASSISTANT CLERK**

Joanne Clinton

**LOCATION**

Committee Room 1

## Scottish Parliament

### Public Petitions Committee

*Tuesday 28 January 2003*

*(Morning)*

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

**The Convener (Mr John McAllion):** I welcome everyone to the second meeting in 2003 of the Public Petitions Committee. Before we come to the first item on the agenda, I remind members that petitioners will speak to six of the petitions that we are to consider this morning. For one of those petitions, in addition to the petitioners, we will hear from witnesses from Scottish Natural Heritage. Our agenda today is heavy. I appeal to members to keep their questions brief and to the point, as otherwise we could be here until well into the afternoon.

### New Petitions

#### Food Supplements and Herbal Remedies (European Directives) (PE584)

**The Convener:** With those few words of warning, we move on to our consideration of new petitions. The first petition is PE584, on the subject of European Community directives on food supplements and herbal medicines. In addition to the principal petitioner, Mr Douglas Robison, we have with us Dr Sheila Gibson, Mrs Helen McDade, Mr John McKee and Miss Fiona Stewart. I welcome you all to the committee. The usual rules apply: Mr Robison will have three minutes in which to make his introductory spiel, after which I will open up the meeting to questions from committee members.

**Douglas Robison:** Petition PE584 was originally lodged in response to two EC directives: the food supplements directive and the directive on traditional herbal medicinal products. However, the latter directive is before the European Parliament and does not deal with a devolved matter, so, apart from requesting the Scottish Parliament to make appropriate representations about Scottish concerns on the matter, we will concentrate on the food supplements directive, which concerns a devolved matter that is shortly to come before the Scottish Parliament.

The food supplements directive is presented to the public as essential to ensure that vitamin and mineral products on the market are safe and properly labelled. That, however, is a misrepresentation. The Food Standards Agency

and the Medicines Control Agency have sufficient powers to control any problem relating to safety or labelling. The real purpose of the directive is harmonisation.

Along with the Netherlands and Ireland, the United Kingdom has the most liberal regime in Europe on food supplements, which are treated as foods, as they are. As long as safety concerns are properly met, products can be, and are, marketed to any level and in any consistency. Consequently, the UK consumer has been able to take advantage of all up-to-date knowledge on nutritional requirements and on the effectiveness of vitamin and mineral supplements for specific health problems and has been able to use the most effective forms of the products.

In other countries in Europe, the regulations are much stricter. Vitamin and mineral products are generally limited to those few that have a recognised recommended daily allowance, which are generally sold at that level or slightly above. That is a rather old-fashioned attitude, which does not take into account modern knowledge on nutrition.

The food supplements directive contains a list of ingredients—vitamins and minerals—that can be used and a list of the forms in which they can be used in supplements. As even the Westminster Government admits, the first list omits some recognised minerals and vitamins. The second list omits more than 200 of the forms in which mineral and vitamin products are currently used and sold—safely—in Britain.

The directive allows for manufacturers to apply for inclusion of those missing ingredients, but the companies that produce the vitamins are generally small—they are often family run—and do not have great resources. Even the FSA estimates that the cost of submitting dossiers for the ingredients missing on the list can be up to £250,000 per ingredient. As I said, more than 200 vitamin forms are currently missing from the list and, to date, I believe that about 30 dossiers have been submitted. The small companies simply cannot afford the cost of seeking inclusion of their products.

The directive also allows for the setting of maximum levels of the vitamins and minerals. It has become clear that, in most of Europe, where recommended daily amounts are standard, countries will be pressing for the maximum levels to be set at about those amounts. That will mean the loss of a great many products that people in Britain find essential in order to maintain their perfect health. UK consumers have been used to the freedom to protect their health using food supplements—I emphasise that they are foods, not vitamins or medicines, and that they are perfectly safe—but, under the food supplements

directive, they are likely to lose that right. The products are generally used by people suffering from health problems, the sick, the disabled, the elderly and the poor, who may not have access to the vegetables and fruits that we all require to eat.

We want the Parliament to do everything in its power to prevent the loss of products that are currently on the market and through the safe use of which Scottish consumers maintain their health.

May I ask Dr Gibson to add a few words?

**The Convener:** Very briefly, please, because we have a heavy agenda today.

**Dr Sheila Gibson:** The food supplements are nutrients—they are food—and they are essential components of our bodies. They are not pharmaceutical drugs. We need them to maintain our health. We should get the nutrients from our food, but we do not, because the soils in the western world—indeed, around the whole world—are now so depleted that we cannot get all the trace elements and vitamins that we require.

We also need a wide range of herbal-type products. We evolved over hundreds of thousands of years eating from a wide range of food groups and we require those biologically active materials to maintain our health.

We do not know all the materials that we require, because, until the last 100 or so years, we got them from our food and did not even know that we needed them. We have started to realise that we need them as we get deficiency diseases.

There is no way in which we can legislate for just a small number of vitamins. We do not know the full scope of the vitamins and nutrients that we require. They are not drugs; they are essential components of our bodies and they should be freely available to everybody who wishes to use them to maintain their health.

10:15

**Phil Gallie (South of Scotland) (Con):** Dr Gibson, what is your area of expertise? Are you a general practitioner?

**Dr Gibson:** No, I have always worked in hospital medicine and complementary medicine. I worked in genetics at the University of Glasgow, but I also worked in the Glasgow homeopathic hospital. In that setting, we became very aware of the importance of nutrition. I am also a biochemist.

**Phil Gallie:** I just wanted to confirm that we could take your comments as fairly authoritative. I am prepared to do that.

**Dr Gibson:** I have an MD as well as an MDChB and an honours degree in biochemistry.

**The Convener:** You are much more qualified than the committee is.

**Phil Gallie:** Douglas Robison referred to the directive as nothing more than harmonisation. Given Europe's record, is that not the rule of the day? Was it not to be expected?

**Douglas Robison:** It was to be expected, but why should we harmonise to the rest of Europe's lower levels instead of Europe harmonising to our much healthier, higher levels?

**Phil Gallie:** I suppose that that has to do with collective decision making in the current European structures. However, that is perhaps another matter. Does the UK have scope to implement the directive in a way that recognises the long-standing value of the minerals to which you have referred?

**The Convener:** If anyone other than Mr Robison wants to answer a question, they may do so.

**Helen McDade:** It has been said, particularly in Westminster, where a similar process is taking place, that there is a lot of scope, because the directive has not set the levels of the minerals and vitamins. To some of us, it is incredible that legislation is passed before it has been decided what that legislation will cover. It has been suggested that we are worrying unnecessarily. However, as Douglas Robison said, many minerals and vitamins are not on the list. We are also concerned that the levels will not be high enough.

The directive misses the point anyway. As Dr Gibson said, we are legislating to say that we can take only those things that have been put on a list, but we are talking about foods—they are natural elements. The directive goes about things in entirely the wrong way. No matter how many items are added to the list and even if the levels are high, the cutting edge of nutritional medicine might next week say that an element that nobody thought our bodies used is essential. That is what happened with boron, which was recognised as essential to our bodies only in, I think, 1990. It is now considered important for combating osteoporosis. The directive totally misses the point. It is terribly out of date before it has come on to the statute book.

**Phil Gallie:** Individuals have made up their minds to take the vitamins and minerals over a period of time and have found that they caused them no harm and, presumably, did them some good. Is their own judgment not the best? Would it be possible for them to use our court system to bring an action against the manufacturer of a product that was not up to scratch if they suffered harm through using such vitamins and minerals?

**Douglas Robison:** Yes. That would be perfectly possible. As I said, sufficient powers already exist to deal with safety concerns, poor manufacturing techniques or bad labelling. The directive does not

introduce any new powers in that area. It introduces regulations on what individuals can take and at what level they can take it.

**Phil Gallie:** Who benefits from that? Is it over-regulation to protect commercial interests external to the UK?

**Douglas Robison:** The interests are not necessarily external to the UK. We are talking about harmonisation, so there is free movement of products all over Europe. In most of Europe, the products are limited to being sold at only a few times the recommended daily amount. Some people want that practice to spread all over Europe. Those who will gain from that are pharmaceutical manufacturers who manufacture low-level recommended daily amount vitamin and mineral supplements. After the directive is passed, the whole European market will be open to them.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** Good morning, folks. I wonder what prompted the directive to be introduced in the first place. It is a source of amazement to me and, I am sure, to other people that, given that the supplements and remedies have been found to be beneficial to many people over centuries, all of a sudden we have a directive that says that they should be restricted. Do you think that pressure is coming from an external source, such as the pharmaceutical industry, to have more products licensed, in order to take people away from the herbalists and others who specialise in the supplements?

**Douglas Robison:** Yes. That is one way of looking at it.

**Dr Gibson:** It is our worry that that is the case.

**Helen McDade:** About 40 per cent of British people take alternative complementary medicines and supplements, so therein lies the answer. There is a huge and growing market, because people are fed up with being prescribed drugs that make them ill and have side effects. I think that you are right.

**John Farquhar Munro:** In your opinion, is the directive aimed not so much at the benefits that can be gained from herbal remedies and nutrients as at the commercial or financial benefit to an opposing industry?

**Helen McDade:** I think that there was confusion when the directive was passed. Replies from various Government departments often start by saying, "We must do this to ensure the safety of consumers"—which we have argued is not true—and then quickly move on to say in the second line, "and for the sake of harmonisation."

I watched the debate in Westminster. One of the MPs said that we have to compromise on the issue and cannot expect everyone to come to our

level. We do not have to compromise. Like many other consumers, I am not prepared to compromise the health of my family. I know that many members have had letters and representations. We say that the matter is a health issue for us and is not necessarily a safety issue. I hope that questions will be asked seeking relative figures for adverse reactions from pharmaceutical products and adverse reactions from food supplements.

**John Farquhar Munro:** It seems strange to me that, although there is promotion of organic farming and organic production, for which there is a lot of support, a restriction is being imposed on herbal remedies and nutrients, which are natural and organic, if you like. Surely there is a conflict.

**Douglas Robison:** Not from the manufacturers' point of view. Large pharmaceutical firms would much rather that we took a drug than a vitamin. They can license a drug, but they cannot license a vitamin, so there is no profit in vitamins.

**Dorothy-Grace Elder (Glasgow) (Ind):** Do you think that the real aim of the directive is perhaps to cut out the con artists who have latched on to the legitimate side of the business? That chap who latched on to Mrs Blair had earlier been selling so-called magic tea of some kind. Do you think that the directive was aimed at stopping that kind of thing, but that all the legitimate people got caught in the same net?

**John McKee:** UK law is robust on the issue. We cannot make misleading medicinal claims under the Medicines Act 1968. The directive brings nothing new to the table in that regard. It will not deal with a con man making misleading claims, because it is already illegal to make such claims.

**The Convener:** This is a point of clarification. Part of the correspondence that was provided to members of the committee was a letter from Anne McGuire MP, which I assume she was writing in her ministerial capacity. Her letter says that the industry supported the measures. Who is the industry and who claims to support the measures?

**Douglas Robison:** The answer depends on whether Anne McGuire is referring to the food supplements directive or the herbal medicinal products directive.

**The Convener:** She says that the industry supports the European food supplements and herbal medicines directives.

**Douglas Robison:** The industry that supports the food supplements directive probably consists of large international manufacturers of low-level vitamin and mineral supplements. They might manufacture some high-level supplements, but they would be prepared to lose the high-level supplements that we use in Britain to gain the whole market of Europe for low-level supplements.

**The Convener:** Does an industry organisation exist?

**John McKee:** The industry organisations are many and varied, which makes it difficult for us to make our case. In the past week, I have seen correspondence on the herbal medicines directive from Richard Woodfield, who is the head of the herbal policy unit at the Medicines Control Agency. He admits that the agency's herbal forum might not be as extensive or inclusive as it had claimed or led UK ministers to believe.

We represent specialist health food stores and specialist manufacturers who cater to a niche market, which uses high-dose supplements that are better absorbed and better tolerated. Our interests and those of our consumers are not being represented at any level.

**The Convener:** Is there evidence that the industry—the big companies—is using lobbying companies to influence the UK Government's position? You have not been able to do that.

**Douglas Robison:** There is evidence in relation to the traditional herbal medicines directive. The part of the industry that supports that directive comprises herbal product manufacturers who have product licences. In general, they have those product licences as of right, because their products were on the market before the Medicines Act 1968 was passed. Those manufacturers are all in favour of the directive, because it will mean that they have a monopoly.

**The Convener:** Would anybody like to make any points that have not been covered?

**Helen McDade:** Although health food retailers are making the argument, the issue is more fundamental and concerns consumers. The industry and business issues are important, but the main issue is our health. Our question to the Scottish Parliament is: will Scottish consumers' health be affected or will they think that it has been affected by the legislation? If so, does the Scottish Parliament have the right to approve such legislation?

We are concerned to ensure that the matter is not lost as a business issue. We would like to know where the directives will go in the Scottish Parliament. Europe has said that the measures must be passed by July. An election is coming up and we have been told that the Health and Community Care Committee has no time to consider the issues. We are concerned to ensure that the measures are not passed without democratic discussions because of a timetable from Europe.

**The Convener:** The European Committee has expressed an interest in receiving the petition, because several of its members are acquainted

with the problem. That committee is working with members of the European Parliament who are informed on the issue. Would that be a good place for us to refer the petition to, or should the Health and Community Care Committee deal with it?

**Helen McDade:** We are happy for the petition to go to a place where it will be seriously considered, but we do not want the health issue to be lost, because it is the most important matter. Members will know whether that can be dealt with without the petition going to the Health and Community Care Committee.

**The Convener:** As members have no more questions, we will discuss what to do with the petition. The petitioners may stay and listen to our discussion.

As the notes that have been circulated to members say, the clerk to the European Committee has said that his committee is willing to receive the petition, because its members know about the topic and have a close working link with one of the main MEPs who is considering the issue. It is suggested that the petition should be passed directly to the European Committee. In the light of what has just been said, I suggest that we ask that committee to look into the health implications of the directive in particular.

10:30

**Helen Eadie (Dunfermline East) (Lab):** I apologise for arriving late at the meeting.

I have expressed an interest to the European Committee in helping to progress the petition. Only last week, I met European Committee officers and asked for a press notice to be issued to ensure that everybody in Scotland who has an interest in the matter—those who support the arguments that have been made and those who have a different point of view—can take note of my interest and submit evidence to the researchers who are working with me. One of the universities is working with us and meetings and contacts with European parliamentarians have been arranged. We are gathering as much information as we can.

I am alert to the health issues that are involved. Last week, I met Helen McDade, Douglas Robison and John McKee for discussions and I am keen to do what I can to ensure that there is as thorough an investigation as possible and that things are taken forward from that investigation.

**Rhoda Grant (Highlands and Islands) (Lab):** I believe that we should copy the petition to the Health and Community Care Committee and send a note to tell it what we have done, so that, if it has any information on the issue, it can bring that to the attention of the European Committee.

**The Convener:** When we refer the petition to the European Committee, it would be good to



suggest that it seek the views of the Health and Community Care Committee on the directive's health implications.

**Phil Gallie:** I am not sure what the European Committee could achieve. Our briefing states that members of the European Committee have

"a close working link with one of the main MEPs considering the issue in Europe."

Where does that MEP stand on the issue? When people have been involved with such issues, they tend to have fairly strong views one way or another. We might well pass on views to someone who has a blanket and bigoted view of the matter. Perhaps that person supports the harmonisation arguments, which may not be what we would wish.

Health arguments have been strongly made and I would certainly like the petition to go to the Health and Community Care Committee with a recommendation that it should give serious thought to the matter. Helen Eadie obviously has her own thoughts on the issue. I would be interested if she could enlighten me about what the European Committee would achieve. In Europe, such issues are dealt with collectively—we do not have a veto and, as we saw with fishing interests, UK interests seem to be simply swept aside.

**The Convener:** Dorothy-Grace Elder and I are members of the Health and Community Care Committee. If we referred the petition directly to that committee, it would give it short shrift, simply because of its current work load. The Mental Health (Scotland) Bill will take up all its time between now and Parliament's dissolution at the end of March. If any progress is to be made, the European Committee is probably better placed to take up the issue. We could say to the European Committee that it should seek the views of the Health and Community Care Committee, which is more likely to express views than conduct an investigation—it simply would not have enough time to conduct an investigation.

**Phil Gallie:** That is fine, but what is the European Committee likely to achieve in the time that is available? If what we have heard is correct, a decision will be taken by July anyhow. Our Parliament will have run down and started up again by then. What can the European Committee achieve with the petition?

**Helen Eadie:** I assure Phil Gallie that I will seek views from all sides on the matter, which is what the Parliament would expect—it would not expect me to seek the views of only one MEP. There must be fairness and the views of many people must be sought. We can present our evidence and it would then be up to colleagues in the Parliament to help to agree a way forward. At this point, appropriate evidence should be gathered and the

views of members of the Health and Community Care Committee should be taken. With the help and support of colleagues, we can decide the best way forward and reach a conclusion. People would expect the Parliament to reach a conclusion, but we need to do so with appropriate help and support from everyone concerned. Opinions should be taken from a range of people throughout Scotland.

**The Convener:** I remind members that a statutory instrument will need to go through the Parliament to approve the directive and that the European Committee could influence whether that statutory instrument should proceed unchallenged and become law.

**Phil Gallie:** However, if the European Commission, the European Parliament and the Council of Europe were to approve such a regulation, the Scottish Parliament would not be in a position to contradict that decision, whatever we say. We could examine the detail of the regulation, but if the regulation were to be introduced at European level, we would have no say whatever.

**The Convener:** We would have a say. The first directive that we heard about—the EC food supplements directive—has to be introduced into law by an act of the Scottish Parliament. That is where a committee of the Parliament could have influence. The regulation could not enter Scots law unless the Parliament approved it.

**Phil Gallie:** Could the Scottish Parliament reject something that had been set in stone in Europe?

**The Convener:** No, but it could say that it was not going to incorporate the directive into Scots law until certain assurances were given. We can seek assurances, and that is something that the Parliament should consider doing. In referring the petition to the European Committee, we are not just getting rid of it; we are asking that committee to take the matter seriously and to consider what action the Parliament should take. We are asking the European Committee to make a recommendation on that basis.

**Phil Gallie:** All right, I will go along with the action of the Parliament. However, that will come later. The first priority is to see what can be done to ensure that the views that have been expressed to the committee are communicated directly to Europe at an official level. On that basis, I suggest that we refer the petition to the Minister for Health and Community Care, asking him to make representations in line with his reading of the situation and telling him about the evidence that we have received. In that way, perhaps our views will get to Europe fairly quickly and in time for officials there to make judgments.

**The Convener:** The problem is that it is the ministers and the Executive who are introducing

the statutory instrument that will bring the directive into force. They are unlikely to change their attitude simply because they have received a petition. There must be an investigation by the Parliament, in the hope that parliamentary pressure on the ministers will persuade them to reconsider the implementation of the directive in Scots law.

**Rhoda Grant:** I would find it strange if the European Committee did not contact the ministers and ask for their comments initially. If we write to the ministers, we will slow up the progress of the petition. We need to speed things up, given the time limits that have been set. We should pass the petition to the European Committee, which can get in touch with the ministers, seek their views and get on with an inquiry without having to wait for us to receive a response and refer the petition perhaps a month from now.

**Phil Gallie:** Is Rhoda Grant saying that we should impose a time limit?

**Rhoda Grant:** No. I am saying that we should refer the petition to the European Committee straight away. That committee can then seek the ministers' views, and the process will be speeded up. If we wrote to the ministers and asked them to respond to us, at the very least that would hold the process back by a fortnight. It could hold the process back for weeks, which would delay the European Committee's beginning work on the petition. Given the time constraints under which we are working, it would be better for us to refer the petition to the European Committee immediately, so that it could begin working on it.

**Dorothy-Grace Elder:** The European Committee is the answer. Normally, we would refer such a petition to the Health and Community Care Committee, but, as the convener knows, it would be impossible for us to do that now.

This directive's card must be marked clearly in advance. You know what it is like, convener: a huge wodge of directives comes through, and it is quite easy to miss something. We must be on red alert, so that the new health committee in the new session of Parliament will be fully aware of the controversy behind the directive. The petitioners have raised an important issue in connection with diet, and there are some good, caring people, such as Helen Eadie, who know about it and who are on the case. Irene Oldfather, the convener of the European Committee, is also sympathetic.

Under the circumstances, the European Committee is definitely the petitioners' best bet. We are not passing the buck. Many people will want to thank the petitioners for all the effort that they have put into the petition. As Helen McDade is here, I presume that the cross-party group on ME, of which John McAllion is the convener, will also be interested in the petition.

**The Convener:** Given the time scale, it is important that action be taken. The best way of ensuring that the Parliament considers action on the directive and makes its views known to the European Parliament is to use a mechanism such as the European Committee. Taking into account all the reservations that have been expressed and suggestions that have been made, we need to agree formally to refer PE584 to the European Committee, asking it to consult the Minister for Health and Community Care and the Health and Community Care Committee on its view of the directive's health implications. That is how we should try to make progress on the subject. Is that agreed?

**Phil Gallie:** I take a more sceptical view of European matters and do not think that we will get the value that we want out of the petition. I will go along with the majority view, but I do so reluctantly.

**The Convener:** Are we agreed?

**Members indicated agreement.**

**The Convener:** It is agreed that we will refer PE584 to the European Committee. As the petition becomes the property of that committee, it will keep the petitioners informed of progress. I thank the petitioners for their attendance.

**Douglas Robison:** Thank you.

## **Detoxification Clinics (Legislation) (PE585)**

**The Convener:** We move to our consideration of PE585, which was lodged by Mr Alan Corbett, on behalf of the residents of Reddingmuirhead, Wallacestone and surrounding villages. Mr Corbett is here, accompanied by Ms Shiona McDonald, Miss Linda Corbett and Mr Alec Binnie. I welcome them to the committee and also welcome Cathy Peattie MSP, who will speak in support of the petition.

The petition is on the siting of heroin and methadone detoxification clinics. I advise Mr Corbett that he has three minutes to make a brief presentation, after which I will open up the meeting to questions from committee members.

**Alan Corbett:** My colleague Shiona McDonald will make the presentation on our behalf.

**Shiona McDonald:** Thank you for giving us the opportunity to address you today. I am the spokesperson on the issue for the community council and residents of Reddingmuirhead and Wallacestone. We want to highlight a flaw in the law, which, if it is not resolved, could have a detrimental effect on every community in Scotland.

Our two small villages have together just over 800 households. Reddingmuirhead has only one play area, which is the place where the survivors

of the Redding pit disaster escaped to in 1923. In 1988, despite objections, a private house was built on part of that historic site. The house was later developed as a residential home for the elderly, but that proved to be unprofitable. The home closed down, its elderly residents were redistributed and the property was sold on.

Clearly, the new owners were well aware that they could convert the premises into a heroin detox hospital using the planning permission that had been granted for the retirement home. No permission for change of use is required, despite the hospital requiring more staff and car parking or the fact that it services a totally different clientele. The community has no right to object and the council's planning department cannot intervene. The regulatory authority that is involved in granting a registration or licence to an acute hospital is the care commission, but it does not consider the suitability of location to be part of its remit, no matter how close the premises are to play parks or schools.

Our community is totally in favour of the provision of suitable drug treatment, but we are talking about a private undertaking that proposes to use a drug that is unlicensed in Scotland and which will not operate under the auspices of the national health service in Scotland. In short, in respect of the proposed venture, the local council has no control over what it is; the care commission has no control over where it is; and NHS Scotland has no control over what it does. If we were talking about a new-build situation, we doubt very much whether the hospital would gain planning permission on its own merits.

As things stand, under the Town and Country Planning Appeals (Use Classes) (Scotland) Order 1997, planning permission is required to move from one class of use to another. For example, change of use from a cold food takeaway to a hot food takeaway requires a change-of-use permit. However, class 8, which deals with residential homes, covers such a broad spectrum that it is open to abuse. Under the current definition, it is possible for a building to escalate from what was, in our case, a simple care home to an acute detoxification hospital without that change of use requiring permission.

We are not the only community to have been adversely affected—even disenfranchised—by that order. As care homes for the elderly are closing down throughout Scotland, how many more communities will be affected by similar commercial opportunism? We urge members to support our petition, which seeks to have the legislation reviewed and revised to establish the necessary powers of control. That would ensure that no more communities are forced to accept such a radical change while remaining deprived of a right to object or the means of objection.

10:45

**Cathy Peattie (Falkirk East) (Lab):** I support the petition. The petitioners represent a community that cannot believe the plans for the centre. Initially, people felt that planning permission issues would prevail and that the private clinic would not land in the middle of the community. However, as we have heard, that was not the case because, as the building's use will not change—although I question that—there is no need for planning permission to be obtained.

The detox clinic will be bang in the middle of a small community, next to a play park and beside a school. The community is clear that it has no objections to a detox facility; indeed, my constituency could do with a detox facility attached to a local hospital. However, the concern is that a private sector detox facility is to be placed bang in the middle of a small community without any consultation with that community. There is also concern about the approach that will be used at the facility—it will be the first time that certain drugs have been used in Scotland.

A further concern is that a similar situation could arise throughout Scotland. When old folks homes or similar premises close and another company moves in, provided that the company intends to open a clinic or a similar establishment, there is no need for them to obtain planning permission and therefore no need to consult the community. The community must simply take what is handed out. That is the real concern behind the petition.

**Rhoda Grant:** I am concerned about the petitioners' request for planning permission to be required for any change of use of sites. I do not question the petitioners' motivation, but do they understand that, regardless of the site, any planning permission that was sought for a change of use to allow the establishment of a detoxification centre would probably lead to local opposition? That is simply because of people's feelings. To put such a planning burden on detoxification centres would discourage the setting up of such places.

**Alec Binnie:** I understand your point; drugs are an emotive subject, which society cannot sweep under the carpet or disregard. However, the plan for our community—although I hope that it will not happen—is for a stand-alone facility. Two similar, although not identical, clinics south of the border are part of a psychiatric set-up, which means that local people have some form of redress and protection under the law. The clinic in Reddingmuirhead will be a stand-alone detoxification clinic with no psychiatric side and there will be no means of redress for the community.

The emotive issue is that the first stand-alone clinic of its kind will be placed in a small

community. There are no means of redress, there have been no discussions with us and no information has been passed to us. The care commission cannot talk directly to us because it is acting on behalf of a private body. A Government body cannot talk to the people who will have the premises in their area.

We do not wish to project the nimby attitude; we are a broad-minded community. We have fought on numerous occasions and, I hope, we have always taken a positive attitude. We want progress, but it has to be for the benefit of everyone concerned and not to the detriment of the people who live in the area.

**Rhoda Grant:** I am not accusing you of being nimbies, but if we change the law to ensure that planning permission is required, would not that encourage nimbies in other areas when similar centres are planned? Would giving powers to the care commission to consult on the location of such clinics meet your objections?

**Alec Binnie:** If the clinic had been a new build, the planning authority would have been involved, but because there is no change of use, no action by the planning authority or opportunity for redress by the community is attached to it.

We are not against the facilities, but please explain to us what is going on. Fairness for all in Scotland is what we are after. Do not just say that the care commission will look after it, when we, as a community council, cannot talk to the care commission; well, we can, but the commission will not tell us anything. We cannot talk to the private owner, because he will tell us only what he wants to tell us. The community is left with no information about a clinic, the establishment of which is very emotive and would be emotive in whatever way it was handled. Surely we must take a step back and try to take the emotion out of the situation by discussing the clinic and its benefits, and trying to get people on side, rather than just putting up the shutters and saying, "We can't talk to you."

**Phil Gallie:** I am a bit concerned about the concentration on private clinics. Probably the best clinic that we have in Scotland is Castle Craig near Peebles; it is very successful, it is private and it stands alone.

The petitioners have made the important point that, in circumstances such as theirs, planning authorities should have some control over the situation. The clinic is sited within a children's play park. I can accept that it might be okay to have a home for elderly persons near a children's play park, but I do not feel that people who are associated with drugs should be in the vicinity of children. On that basis, I suggest that local authorities should have control over such situations. There should be a requirement for the

change of use to be examined. There is some value in the petitioners having raised the matter.

**Shiona McDonald:** Thank you for your agreement. Part of the problem is that because the clinic will be a stand-alone facility and not governed by the Mental Health (Scotland) Act 1984, the clientele who use the facility will be at liberty at any stage of their treatment—which is a cold-turkey treatment—to leave the premises. The clinic and the children's play park share ground. The play park wraps round the front. In fact, the clinic's driveway crosses over the children's play park. The people who attend the clinic will be at liberty to leave because they do not come under the Mental Health (Scotland) Act 1984. It is of concern that nobody can exert any control over what happens with the clinic. No matter which Government body or authority we turn to, their hands are tied, which is why we want legislation to be opened up so that someone somewhere can exert some control over what is happening.

The clinic is a commercial venture. The clientele will use the clinic—and more power to them if they want to clean up their act; I am all in favour of that—but the clinic is coming into our community and is not of benefit to the residents of our community. It is not servicing our community; it is taking from it. No one seems to have any control over whether that should be the case.

**Phil Gallie:** You are lucky indeed if you can say that your community has no need for such a clinic.

**Shiona McDonald:** I am not saying that our community has no such need. I am saying that the clientele that the clinic will treat will not be from our community. We have, as has every other community in Falkirk, a problem with youth and drugs. We cannot deny that, but the clinic will not deal with our community's problems. One of the reasons for the company purchasing this particular property was that it is in central Scotland and can be easily accessed from Grampian, from the west coast, from the east coast, and perhaps even from the north of England. The site was not picked to contribute to our community and to help our problem. It was picked purely and simply for its accessibility.

**Cathy Peattie:** I wish to pick up on Phil Gallie's point about Castle Craig, which is different from the proposed clinic. Castle Craig uses a tried and tested approach. People from all over Scotland, including my community, can use Castle Craig. At the proposed clinic, people will pay £3,000 to come for a week, detoxify and be sent off again. It is unlikely that people from my community, my constituency or even central Scotland will use the facility. People will buy a place in the facility, be dropped off on a Sunday and be picked up possibly at the end of the week.

We are concerned about what will happen in the interim while detox is under way, and worried that people will be dropped off in the community near the young offenders institution at Polmont, local schools and so on. There will be traffic going in and out of the community and people being dropped off, with no one knowing their background. The community is not against treating people with drug problems; folk are realistic about the kind of support that young people need. I am not saying that our young people do not have drug problems, and I recognise that young people with drug problems need support.

We are talking not about a clinic such as Castle Craig, but about another kind of private sector facility. I think that it is offensive that someone in the private sector looked at a map and decided that they would go to a place without consulting the community and without the community having any opportunity to change the situation.

**Phil Gallie:** I accept what Cathy Peattie says. She has referred to something that concerns me.

Shiona McDonald has highlighted a weakness by saying that there is no requirement to obtain permission for change of use. Her point about the change from cold food to hot food was interesting. People's decisions to grant planning permission are based on the circumstances that are presented to them. I give Shiona's argument my backing, although I have concerns about her emphasis on the private sector and its suitability to run clinics. Can she confirm that that is what she wants the committee to consider?

**Shiona McDonald:** Absolutely. I have placed emphasis on the private aspect because the facility is a commercial venture. Everyone has a right to make a living—do not misunderstand me—but in this case, it is not being put to good use. If a facility comes into a community for the benefit of the people there and has the best motives to help those with drug problems, people are prepared to do everything that they can to help it. However, if that facility is not giving back to the community what it has taken out, an imbalance will be created.

**The Convener:** Is the owner who is promoting the clinic the same person who previously owned the home for the elderly?

**Shiona McDonald:** No.

**The Convener:** Was the property sold to him?

**Shiona McDonald:** Yes.

**The Convener:** Let me get this straight. The clinic is not run by the NHS, is not a voluntary organisation, and is not part of any community provision to look after people with drug problems; it is a purely private enterprise.

**Shiona McDonald:** Yes.

**The Convener:** And the owners have been able to exploit a loophole in planning law to get their plans through without any consultation. Is it correct that you object to the facility not on the grounds of the private-public argument, but because there has been a lack of consultation with the community and there is a need to tighten planning laws?

**Shiona McDonald:** We object to the facility because the community has a lack of control over what is going to happen.

**The Convener:** If the proper planning procedures had been applied, and you had been consulted, would you be happy with that?

**Shiona McDonald:** If the planning department had been involved, and had given the facility the go-ahead, we would have had a voice and a forum in which to raise our concerns and objections. Proper procedure would then have been followed.

Problems arose when the house was built. Nobody wanted the house to be built because it was felt that the site should be preserved. Objections were raised, the proposal was submitted, and planning permission was granted—end of story. When the house was developed into a residential home for the elderly, concerns were raised once more because a play park was in the area, and, as we know, children make a noise—children are put in play parks so they do not make a noise in the house. The elderly would not have been happy with lots of children outside, so it was felt that the residential home was inappropriate. Again, the proposal was submitted and objections were heard, but planning permission was granted. This time, however, we have nowhere to go.

**The Convener:** Those supporting the petition are free to listen to the following discussion about what we will do with it.

I direct members' attention to the suggested action. I also remind them that they are not allowed to become involved in issues connected to the specific location for a proposed clinic in any area of Scotland. However, given the general implications that have been brought to light by the petitioners this morning, the first suggestion is that we write to the Executive. I suggest that we write directly to the Minister for Social Justice, who has responsibility for planning, to ask for her comments on the general issues that have been raised by the petition. We should ask in particular for her position on the siting of green-door clinics in close proximity to schools without there being a requirement for any consideration or approval by the local council on their location.

Secondly, it is suggested that we ask whether the minister has any plans to review the categories

under the Town and Country Planning (Scotland) Act 1997 or the appropriate use classes order to ensure that a significant change of use of premises to proposed developments, such as green-door heroin and methadone clinics, would require an application for planning permission to allow for proper consideration by local authorities. It is also suggested that we copy the petition to the Minister for Health and Community Care for his comments. Is that agreed?

**Members** indicated agreement.

**The Convener:** I thank the petitioners for their attendance this morning. We will keep them informed of progress as we get responses back from the ministers.

### War in Iraq (PE586)

**The Convener:** We move to PE586, from Elinor McKenzie, on behalf of the Scottish Coalition for Justice not War, on the subject of military action against Iraq. Miss McKenzie, you have seen how this happens; you have three minutes to make a quick presentation and then it is open to members of the committee to ask questions.

11:00

**Elinor McKenzie (Scottish Coalition for Justice not War):** Since the submission of the Scottish Coalition for Justice not War petition, the Parliament has debated the proposed war on Iraq. We acknowledge that and the fact that defence is a reserved matter. However, we are pleased to present our petition today in the hope that a means can be found for the Scottish Parliament to support the growing anti-war movement in Scotland.

We meet at a time when the die is being cast for a yet more dangerous wave of US aggression, in which the British Government is the main accomplice. We feel that our prime duty is to consider how best we can help to avert a war. The lives and livelihoods of millions of people throughout the world depend on the outcome. The war will not be fought just between two armies in Iraq.

The peoples of the world are saying no to war against Iraq. Opposition is growing. A week ago there were massive demonstrations in cities and towns across the globe. Some 500,000 marched in Washington and 50,000 marched in San Francisco. Thousands marched in Tokyo and there were major protests in Hong Kong, New Zealand and Australia. Hundreds of school children joined protestors in Islamabad to form a human chain to Rawalpindi, which is six miles away. In Damascus, tens of thousands of people marched. There were protests outside the United Nations office in Beirut. Anti-war protestors took to

the streets in Paris and other French cities and German towns and cities held protests too.

In Britain, thousands took to the streets in Cardiff, Birmingham, Bradford and Liverpool. Vigils were held in London and in Glasgow 365 people attended an anti-war conference in the Woodside halls. The conference was organised by the Scottish Coalition for Justice not War, which is organising the massive demonstration in Glasgow on 15 February. The signs are that it will be the biggest anti-war demonstration that Scotland has ever seen.

The British Cabinet is greatly divided on the issue, with ministers such as Clare Short having made strong statements in recent weeks. Opinion polls show that the strength of feeling against an attack is strongest in Scotland. Among those MPs coming out against attack are Scottish MPs Tam Dalyell, Mohammed Sarwar and George Galloway, all having spoken out in the House of Commons as well as at Scottish Coalition for Justice not War rallies. The Liberal Democrats, the SNP and the Scottish Socialist Party are on board the anti-war platform.

An opinion poll conducted by System 3 in Scotland between 26 September and 3 October 2002 discovered that 65 per cent of those polled would be opposed to military action in Iraq if it were carried out by American and British forces only. Only 24 per cent would support such action. Some 69 per cent said that the Westminster Government should consult with the Scottish Parliament before engaging in military action in Iraq or elsewhere. An earlier System 3 poll conducted in Scotland and published in *The Herald* on 2 September found that 57 per cent of respondents were opposed to a US-UK strike on Iraq, with only 30 per cent supporting such action. More significant is the survey done by the BBC's Asian network between 5 and 15 October, which indicated that 61 per cent of Asians in Britain disapproved of how Tony Blair was handling the crisis over Iraq.

A major war in Iraq would have uncertain consequences. In addition to the immediate problems that arise during any conflict, there would also be long-term problems for the stability of the middle east. In the present economic climate, such global uncertainty and instability could have a negative impact on the Scottish economy and on employment here in Scotland.

The Asian community in Scotland has played a leading role in opposing the threat of an attack on Iraq. The involvement of British forces in such a war could alienate that section of the population and lead to a deterioration in community relations.

The Scotland Act 1998 reserved some matters, but that does not prevent the Scottish Parliament

from discussing and expressing a view on the issue of an attack on Iraq. I know that that has been done.

Just as significant as the opinion poll statistics on the numbers of those opposed to war in Iraq is the range of organisations and groups that is represented in the Scottish Coalition for Justice not War. The coalition is supported by important sections of the labour movement, including the Scottish Trades Union Congress, the Fire Brigades Union, Unison, the Educational Institute of Scotland, the National Union of Journalists, the Union of Construction, Allied Trades and Technicians and many other unions.

The coalition is also supported officially by the Roman Catholic justice and peace commission and the Church of Scotland. We also have significant support from the Muslim population, and from organisations such as the Muslim Association of Britain, the Islamic Society of Britain, the Islamic Mission and the Central Mosque.

Other organisations that support the coalition include the Scottish Campaign for Nuclear Disarmament, the Scottish Green Party, the Scottish Socialist Party, the Glasgow Campaign to Welcome Refugees and organisations that work in solidarity with and for justice in Palestine.

The United Nations weapons inspectors' report does not confirm that Iraq has weapons of mass destruction. That is the crux of this desperately dangerous situation. We hope that the Scottish Parliament can find a way to support the anti-war movement in Scotland.

**The Convener:** Thank you for your presentation. Before opening the meeting to questions, I declare an interest as a member and supporter of the Scottish Coalition for Justice not War.

**Phil Gallie:** I congratulate Elinor McKenzie on part of her presentation. Does she agree that her presentation has amply demonstrated the truly democratic nature of the major countries that she mentioned, such as America and the United Kingdom, which allow demonstrations that are clearly against the Government line?

**Elinor McKenzie:** Those Governments allow demonstrations.

**Phil Gallie:** Those are truly democratic Governments. Would you accept the decisions of those elected, democratic Governments?

**Elinor McKenzie:** We could debate that.

**Dorothy-Grace Elder:** Westminster has not been allowed to debate the issue.

**Phil Gallie:** The terms of the petition ask for the Parliament to "take a view". Do you feel that that element of the petition has been met?

**Elinor McKenzie:** Yes, the Parliament has taken a view. It is unfortunate that our petition was not heard before the debate, as we would have liked to have given our point of view before that debate took place. We wanted to highlight the breadth of opposition that exists within the Scottish Coalition for Justice not War.

**Phil Gallie:** Is not the party that lodged that motion for debate part of your coalition?

**Elinor McKenzie:** Yes.

**Phil Gallie:** Did it collude with you about the timing of the debate, or did it act alone?

**The Convener:** To be fair, Elinor McKenzie is not in a position to answer for the Scottish National Party.

**Elinor McKenzie:** I cannot answer for the SNP, although it is part of the coalition. Timing is not always within our control.

**Dorothy-Grace Elder:** We want to make progress on this matter. There has at last been a debate of a type in the Parliament, but no debate has as yet been permitted in the democratically elected Westminster Parliament. You may wish to request that this committee writes to the appropriate people at Westminster, asking for some democracy to be introduced on the subject of an impending war—perhaps—with Iraq.

You could, of course, resubmit your petition. However there might be some way in which we can move forward on the matter today. The petition is out of date to an extent because the Scottish Parliament debate has taken place. You could consider writing to the Presiding Officer, asking that any debates on a subject as important as war—which has already caused £30 billion to crash off the stock exchange—are in future conducted without whipping. Had the whips been off on the day when the Parliament had its debate, there would have been a different result, and people would not have been intimidated.

**Elinor McKenzie:** I take on board your comments.

**The Convener:** Are you aware that there is to be a further debate on the subject this Thursday?

**Elinor McKenzie:** Yes. We are hoping that today's exchange will be helpful when it comes to that debate.

**The Convener:** I imagine that you will accept the difficult position in which the committee finds itself. The Parliament has already had a debate on the subject, and is going to have another one this Thursday. Practically, there is nothing that we can do to call on the Parliament to debate the issue, because it is debating it already.

**Elinor McKenzie:** The second part of our petition referred to the question of a war against

Iraq, with or without United Nations sanction. The view of the Scottish Coalition for Justice not War is heavily in favour of no war, whether or not there is a United Nations resolution. We feel that the amount of lobbying, bribery, corruption and abuse of the United Nations Security Council members on this matter has been extreme. It is well documented that the Security Council is being manipulated in a way that Kofi Annan should be making clear to the rest of the world. The United Nations was not set up as a body to sanction war; it was a body to keep the peace. There are many other ways in which the United Nations could be used in order to deal with tyrants in countries around the world who have committed war crimes. Indeed, that currently applies in the case of Milosevic.

If it is the case, and I think that it is, that Saddam Hussein and his regime are corrupt, dangerous and tyrannical, and should face the consequences of their actions against their own people—that includes socialists, left-wing people and communists, and anyone who opposes his regime—then he and his allies should be tried in a proper court of law for those crimes and should be dealt with accordingly. I am not condoning the regime; we are not condoning the regime in Iraq. There is provision for the United Nations to be used to deal with things in that way.

Having said that, it is not really for the people who see a wrong being done and who seek to stop it to find an alternative. If a wrong is being done, we all have a right to say, "Stop! A wrong is being done here," but without necessarily having to enter into the details of the alternative that we might propose.

**Helen Eadie:** What would your organisation's attitude to the war in Kosovo have been?

**Elinor McKenzie:** The organisation did not exist at that time.

**Helen Eadie:** In that case, what is your own view?

**Elinor McKenzie:** I am not here to speak as an individual; I speak on the coalition's behalf.

**Helen Eadie:** The situation in Kosovo was similar. I confess that I was a critic of Tony Blair—I did not think that he went in quickly enough to stop the ethnic cleansing. I am not a pacifist and I cannot stand back and watch someone—such as Milosevic in Kosovo—carry out ethnic cleansing. That is not directly related to the petition, but you brought up Kosovo, so I asked you about it. What is your view on the war in Kosovo?

11:15

**Elinor McKenzie:** As I said, I am not here to answer questions in a personal capacity, but as

you have pushed me a bit, I will say that I do not think that diplomatic means were used as effectively and efficiently as they could have been. I suggest that you read the Rambouillet accord, which made demands of the Government in Kosovo that no elected Government would accept. I do not want to develop that; the issue is not relevant.

**The Convener:** Kosovo has nothing to do with the petition. Different members take different views on such issues.

**Elinor McKenzie:** I made the reference in the context of the United Nations being a force for peace. The UN can investigate and deal with—if you want to put it that way—any abuse by the current regime in Iraq.

**Helen Eadie:** I will return to the debate in Westminster. Do you accept that the House of Lords and the House of Commons have debated the issue? The House of Commons debate was on 25 November 2002; I do not remember the date of the House of Lords debate. Both Houses of Parliament have debated the matter, but it is so serious that we should continue to debate it, as we are in the Scottish Parliament.

I imagine that no one in the room wants us to go to war. You were right to say that such a war would be different from all the wars that we have experienced. Last week, I read the entire House of Commons debate carefully. Do you accept that, throughout that debate, Jack Straw said time and again that Her Majesty's Government would prefer to return to the United Nations Security Council and to its five permanent members to obtain a second resolution? That did not come across in what you said, but it is important to emphasise that.

**Elinor McKenzie:** I take your point. As I said, the position of the Scottish Coalition for Justice not War is that it would be wrong to wage war against Iraq, with or without a United Nations resolution. Our Prime Minister continues to use the medieval royal prerogative to decide on war and peace. We think that that is a pretty sorry state of affairs that serves to remind us all of the critical importance of extra-parliamentary action in any parliamentary democracy. That is what we are using. Vast numbers of the Scottish population agree with the Scottish coalition that we should not wage war. Sometimes, politics is too important to be left to politicians.

**The Convener:** Unfortunately, petitions have to be left to this committee. You and I might not always agree with that, but that is the reality. As members have no more questions, I thank Elinor McKenzie for her evidence. You are free to stay and listen to our debate about what to do with the petition.



Members' papers show that the Parliament has already taken the action for which the petitioners ask, in that it has taken a view on the dangers of military action against Iraq, although the Parliament's position was not that which the petitioners or I wished it to take. The matter is reserved to the Westminster Parliament and the Scottish Parliament can take no action other than debating and taking a view on the issue, so it is suggested that the petitioners' objectives have been met and that there is no need for the Scottish Parliament to take further action, given Thursday's forthcoming debate on Iraq.

**Phil Gallie:** If the petitioner wants to advance her arguments, it might be worth her while to approach a friendly MP at Westminster and to ensure that her petition is submitted to Westminster.

**The Convener:** As two old Westminster hands, Phil Gallie and I know well that petitions at Westminster disappear into a big, green bag and are never seen again.

**Dorothy-Grace Elder:** We are still trying to bring democracy to Westminster, but it is a hard job. It will reach Baghdad first.

**Phil Gallie:** I dare say that a friendly MP could pursue an adjournment debate at Westminster. That is always a useful course.

**The Convener:** The committee has no power over the Westminster Parliament. I would like there to be a debate on a substantive motion on war against Iraq so that members could vote for or against such a war. That has not yet happened at Westminster, but the committee has no remit over that; not yet, anyway. Unfortunately, we will just have to agree to take no further action. As the Parliament has already debated the issue and is going to debate it again, there is no more that we can do. I am sorry about that.

**Dorothy-Grace Elder:** I suggest that the petitioner considers writing to the Presiding Officer. The Presiding Officer does not have complete control over such things, but the petitioner might ask him what the situation is with regard to whipping on such a key issue. Whipping is what skews a vote. We should have had a free vote in the Parliament on such a topic.

**The Convener:** I am told that the Presiding Officer has no power over what political parties in the Parliament do.

**Dorothy-Grace Elder:** I know that, but I am sure that he could comment on the position. Democracy begins to dissolve completely when there is whipping. The vote on the international situation was whipped—it was cudgelled like seals.

**Helen Eadie:** Can I just clarify the rules? The rules for the Labour party state clearly—unless

they have changed—that every member of any Parliament has the right to a conscience vote. I was not whipped on that day, and I do not think that any of my colleagues would have been whipped on a matter as serious as that.

**Dorothy-Grace Elder:** All the parties do it. It would not be fair to attack Labour—all the parties are at it except Tommy Sheridan, who is responsible only for himself.

**The Convener:** What parties do is an internal matter for the parties; however, they can be challenged publicly and at the polls for what they do. I certainly did not vote with the whip that was imposed on me.

**Elinor McKenzie:** With your indulgence, convener, I remind the committee that the Scottish Coalition for Justice not War is organising the anti-war demonstration on 15 February. It would be great to see you all there with your constituents.

**The Convener:** Certainly, some of us will be there. Thank you for your attendance this morning.

### Scottish Enterprise (PE587)

**The Convener:** The next petition is PE587 from Mr Bob Brown, calling for the abolition of Scottish Enterprise. I invite Mr Brown to come forward. The usual rules apply. You have three minutes in which to make a presentation, after which members of the committee will ask you questions.

**Bob Brown:** I would quickly like to clear up one thing—when I find my speech. Lord James Douglas-Hamilton approached Robert Crawford of Scottish Enterprise about my petition on the abolition of that organisation. Mr Crawford sent back a letter questioning my—what do you call it? It is a long time since I made a speech—ability to do so. I want to remind the committee of the people with whom I graduated. When I graduated, George Robertson, now the secretary-general of NATO, had just left the university. The people with whom I graduated included Brian Wilson, MP; Jim Innes, of the *West Highland Free Press*; Richard S Tur, the youngest professor of law at university for many years; Professor David Petrie, who won a landmark case in the EU and who was my flatmate; and Tom Crooks, who challenged the UK legal system in a case that is frequently cited in *Hansard* as *Crooks v the legal system*—a touch ironically, as he beat the system hands down. So, I do not like Mr Crawford's attitude.

Anyway, let us get back to how Scottish Enterprise works. First of all, you get in the door and say, "Can you help me?" They say, "We can help you with anything whatsoever."

I devised two products. Fortunately, they overlapped with bar products. I have now patented one. Scottish Enterprise said to me, "Go and do

some market research. Show us that those products have some kind of life span and we will come back and help you." One of the products makes Irish coffees. It is branded and corporate. Probably 100 million could—or should—have been sold if Scottish Enterprise had helped me. The second product is a tray for recycling bottles. It is simple and inexpensive. It pays for itself within a month and would probably last three years.

We did all the licensed trade shows. We did the British Invention Show in London. I took the first product to the most famous inventor in the world, who is a South Korean businessman. He said, "Go to America. You will sell millions and millions because it is practical, it has a name and it goes in the top pocket, so people can steal it or take it away and give it as a tourist gift."

Every major brewery in Britain wanted to purchase the second product. We had notes of interest from Diageo, Tennent Caledonian Breweries and Scottish & Newcastle. Eighteen thousand pubs noted an interest in it. All I needed to break even was for 300 pubs to purchase it. Nobody in Scottish Enterprise had heard of any of those people. I almost forgot to mention the model maker who built the product. He is very hard to find. He has been building models for 20 years for huge corporations such as Philips Electronics and Hoover. He said about the product, "That is the best product that I have ever seen in my life."

I went to Scottish Enterprise and said, "How are you going to help me now? There is over £1 million of business." They moved me from one side to another and another until, after 10 months, a guy said to me, "Look, there is no help whatsoever for small businesses. You should have been told that on day one. You have been wasting your time and your money."

So that was that. We lost £12,000 on that project. Five of us, all working-class guys, put in £2,000 each, because we were convinced that we could not lose, until we met Scottish Enterprise. Because Scottish Enterprise put me on the dole, I had to get off the dole. To get off the dole, I invented another product, which I have here. This blue plastic bag performs the equivalent task of three sandbags.

**The Convener:** You are already over your three minutes.

**Bob Brown:** I am sorry. The fourth product was a supermarket shelving system, which I took along to a guy at Scottish Enterprise in Glasgow after a referral by Wendy Alexander. I said, "I have a product that will create at least 5,000 jobs, preferably in Bathgate." His answer to that was, "So what?" That was it. As I left the office, the young guy who was sitting beside him got quite excited about the product and wanted to see what

it was. The first guy had not even asked what the product was and the young guy said, "Tell me more about it." He was told, "Shut up. Let him get on with his business." That is the way that Scottish Enterprise works.

**Rhoda Grant:** I gather that you were going to Scottish Enterprise for start-up funding.

**Bob Brown:** No.

**Rhoda Grant:** What were you asking them for?

**Bob Brown:** Because I had never been involved in any business connected with inventions, I went to Scottish Enterprise for general assistance. We had funding available initially. Scottish Enterprise said that it would help in some way once we had proved that the products had a market.

The idea that they could help me is beyond belief. I have done more business plans than anyone in the room. I have a thesis on dynamic economics on the internet. I have it here. I know all about such things. Scottish Enterprise should have said to me at the beginning, "Here is a sheet of paper. This is how we work. This is what is available."

I was looking for some capital to buy machinery to make the products. That is all. I did not have to touch the money that we had, because we had proven that the markets existed. If Scottish Enterprise had provided the capital for the machinery, the banks and others would have weighed in, because we had shown them that we had the money, but until we had the machinery we could do nothing.

I assumed that, out of a budget of £500 million, Scottish Enterprise would have the money for a machine that cost £6,000. I am a fool—or am I a fool? Why did they not tell me when I went in to the office that there is no money for anything. There is no money for intellectual property or copyrighting. There is no money for anything at all apart from advice from people who are not very well in the head.

**Phil Gallie:** I understand some of the difficulties that you have encountered and agree with what you say about those who are approached initially having to be up front about saying that no capital sums are available for facilities. There should have been money. You said that you were asked about market research—Scottish Enterprise should be able to help with such things. Did Scottish Enterprise make no offer in respect of market research?

11:30

**Bob Brown:** There is no help whatever. My contention is that Scottish Enterprise will never create a job, as that would jeopardise the £400

million to £500 million that the Parliament hands out every year, willy-nilly. The Parliament gets nothing out of Scottish Enterprise—it will not get a single job out of Scottish Enterprise unless that organisation goes abroad to bring in foreign companies and lavishes funds on them. Those companies will stay here until the funds run out. Scottish Enterprise will then blame their departure on the global recession, the global down-turn or the global anything. Companies come here in the first place only for free cash. I offered Scottish Enterprise an indigenous business.

I would have brought to the committee meeting the prototype of the shelving system—which is what every supermarket wants—but I could not. Supermarkets are spending millions of pounds on trying to make efficient round cans, as it is silly to put round cans on top of round cans—they fall and people trip over them in the aisles. Making efficient round cans is difficult. Three months ago, Sainsbury's spent £8 million on square cans. If things are done badly, the industry could potentially employ 1,000 people, but if things are done well, it could employ 20,000 people and start off another four industries. Scotland could be given five new industries, but Scottish Enterprise does not care.

**Phil Gallie:** The Scottish Executive sets the criteria for what Scottish Enterprise can offer and the Scottish Executive is controlled by European legislation to a degree, which we discussed earlier. Are you saying that a person who has an innovative idea will not be able to find any financial backing whatever for the development of that idea?

**Bob Brown:** That is correct.

**The Convener:** You mentioned that you spent 10 months going around the houses inside Scottish Enterprise. What happened during those 10 months? Did Scottish Enterprise just offer you advice?

**Bob Brown:** What happened was very cute and has happened to many of those who signed the petition. Scottish Enterprise will hold a meeting in which it will ask whether there is a business plan and a cash flow. If it is told that there is a business plan and a cash flow, it will not say that it cannot help, but that it will have to think about matters. Six weeks later, a "Dear John" letter will be received that says that no help is available, but that another part of Scottish Enterprise can be tried. In the interim, and for the Parliament's benefit, Scottish Enterprise will state that it has helped the person as a business. I dealt with Scottish Enterprise on 27 occasions while I was pushed around. Sometimes there was a quick chat; other people were more serious. In one year alone, Scottish Enterprise helped me 27 times, although it bankrupted me.

**The Convener:** So when Scottish Enterprise's annual report is published and states how many businesses it has helped in the past year, 27 of those businesses will be you, albeit that it did not help you at all.

**Bob Brown:** We eventually lost £12,000, which is a lot of money.

**The Convener:** Do you maintain that if Scottish Enterprise had said from the word go that there are no soft loans or capital grants and that you would need to go somewhere else, you would not have wasted your time with Scottish Enterprise?

**Bob Brown:** That is correct. We had enough money to kick-start the project. I went to the bank. We had capital and a proper business plan, but the game was new and we experimented. The bank could have doubled the money, we would never have become involved with Scottish Enterprise and I would not now be sitting in front of the committee.

**The Convener:** Your petition calls for a radical objective, which is the abolition of Scottish Enterprise. I doubt whether the Scottish Executive would respond positively to that suggestion. Would it not be better to seek a response from the Scottish Executive about your particular complaints, rather than just call for outright abolition of the agency?

**Bob Brown:** Yes, but I like going over the top a wee bit.

**The Convener:** Just a wee bit, yes.

There are no further questions, so thank you for your attendance. You are free to sit and listen to the committee's suggestions.

**Bob Brown:** I would like the Parliament to consider the complaints of a whole load of people who have dealt with Scottish Enterprise. I would like the Parliament to consider the hundreds of thousands of people whose lives have not been helped by Scottish Enterprise. Every person I have met who has dealt with Scottish Enterprise is scathing about that organisation. I would like the Parliament to consider all those views together, rather than just my individual view.

**The Convener:** Okay. Thank you.

I ask members to turn, in the papers before them, to the suggested action on PE587. Members will see that it is suggested that the radical nature of the petition's main call for the abolition of Scottish Enterprise is unlikely to be given any credence by the Scottish Executive. It would probably be futile to pursue that aim. If that is the committee's view, full stop, then we can simply take no further action on the petition. However, we could agree to write to the Executive seeking its comments on the general issues that

the petitioner raised here this morning. We could ask the Executive for details of its position with regard to the adequacy of current support for business start-ups in Scotland, together with an indication as to whether the Executive is satisfied that Scottish Enterprise is performing its role.

We could also ask for the Executive's comments on the petitioner's claim that Scottish Enterprise has pursued a policy of subsidising inward investment at the expense of encouraging the creation and growth of indigenous industries. That policy has been detrimental to the Scottish economy, because many global companies have withdrawn from Scotland in recent years. We could also ask the Executive about its position on providing soft loans and grants to start up businesses. We could then consider the Executive's response to our questions. Is that agreed?

**Phil Gallie:** What we need is a clear exposition of what people can expect. Criticism of Scottish Enterprise comes not just from Mr Brown, but from constituents. I am sure that all members have heard such criticism. People go along to Scottish Enterprise expecting financial help, but it is just not there. Perhaps we should ask the Scottish Executive whether it has considered that, and if not, whether it will consider it.

**The Convener:** We should ask the Executive for any information that it has about the level of dissatisfaction among those who approach Scottish Enterprise and whether the Executive keeps any record of the numbers involved. We should also ask the Executive how much information is given to people when they initially approach Scottish Enterprise and about the limits and nature of the assistance that is available to them.

**Helen Eadie:** It is unfortunate that we all have experience of people who are in a position similar to Mr Brown's. Perhaps the Scottish Executive could arrive at a kind of statement, charter or contract for people who want to go into business, which would inform them of the minimum support that they could expect from Scottish Enterprise. That would go a long way to at least clarifying what individuals can or should expect to get from Scottish Enterprise.

People's expectations can be raised so that they think that Scottish Enterprise is a wonderful, magic cure-all. However, we all know that that is not the case. A minimum standard must be laid down stating what any individual knocking on the door of Scottish Enterprise can expect to receive in grants, support or advice. It should be made clear to people what they should expect to find when they go in that door. We should have that as an outcome.

**The Convener:** Okay. I think that we have got that.

**Bob Brown:** What Helen Eadie suggests is impossible. When I first started dealing with Scottish Enterprise, it had about 116 different arms, all of which had 12 to 20 different pamphlets. Nobody knew anything about anything.

**The Convener:** That is a fair point, but I think that we should also ask whether a minimum standard of guaranteed service is available to people who approach Scottish Enterprise. If it is not, we should ask why that is the case. We will seek the minister's views on all these issues and consider his reply. We will keep you informed of that reply, Mr Brown—thank you again for your attendance this morning.

**Bob Brown:** Thank you.

### M80 Extension (PE588)

**The Convener:** PE588 is from Sam Mitchell, on behalf of Cumbernauld community councils' M80 joint action group. Sam Mitchell should be here, along with Ian Smart, John Freebairn, Tom Reilly and Lorence Sheach. Cathie Craigie, the local MSP, and Andrew Wilson MSP are also here.

**Ian Smart:** I will introduce the people who are with me: Mr Lorence Sheach is a former chief engineer with the former Cumbernauld Development Corporation; John Freebairn is a former senior roads engineer with the former Central Regional Council; and Sam Mitchell is the petitioner, who petitions on behalf of the Cumbernauld joint action group, a body that represents every community council in Cumbernauld. It is only right that I should say that I am a local solicitor and a legal adviser, but I am not attending in a paid capacity.

I will be as brief as possible, but the issue stretches back over a long period of time. I will start with a wee bit of geography for members who are not familiar with the area. Cumbernauld lies pretty much halfway between Glasgow and Stirling. It is a new town and was built in the 1960s. When it was built, the whole town was to lie to the south of the existing A80, which was then a single carriageway. As part of the construction of the new town, the A80 was upgraded to a dual carriageway. That work was finished towards the end of the 1960s.

The original target population for Cumbernauld was 50,000 and, as I said, the whole population was to lie to the south of the A80. In the early 1970s, the Government decided to increase the target population of Cumbernauld to 70,000 but, for a number of reasons, the only practical option was to expand the new town on the north side of the road. Consequently, Cumbernauld today has a

dual carriageway going through the centre of the town. The dual carriageway carries 75 per cent of all the commercial traffic that moves from place to place in Scotland.

In 1970, concerns were raised about the impact on the town of upgrading the road. The Government gave an undertaking to the Cumbernauld Development Corporation that any new road would bypass Cumbernauld to the north—that route has become known as the Kelvin valley route. In the late 1980s and early 1990s, talks started about the upgrading of the road. At that point, the Scottish Office produced a document called “M80: Steps to Haggs Section”, which recommended clearly that Cumbernauld should be bypassed. Policy continued on that basis. Thereafter, the Scottish Office produced a formal consultation document, “M80/M73 Steps to Haggs Consultation”, which set out the pros and cons of each route and which basically came down in favour of the Kelvin valley route. As members may be aware, that consultation took place against the background that, in the run up to the 1997 general election, motorways became controversial. There were rows about the M77 upgrade, with which Mr Gallie will be only too familiar.

In the immediate pre-election period in 1997, the then Scottish Office minister, Lord James Douglas-Hamilton, indicated that his preference was now turning towards the road going through Cumbernauld. He gave that indication with a number of important caveats: it was opposed by the local authority, the member of Parliament, Cumbernauld Development Corporation, 14 out of the 15 local councillors and every community council in Cumbernauld. When a debate was held in the House of Commons, Lord James Douglas-Hamilton said clearly to the then MP for Cumbernauld, Norman Hogg, that although the route through Cumbernauld was the Government's preferred route, there would be a full local public inquiry, which would consider both routes.

The 1997 election was fought by the incoming Labour Government on an undertaking to re-examine the whole issue. When the Labour Government came to power in 1997 it set up what was known as the strategic roads review, which reported in July 1999. The Government did not come down in favour of either route, but if members read the review, it is clear that it is in favour of the Kelvin valley route.

At that point, things went comprehensively wrong. In November 1999, Sarah Boyack, who was then Minister for Transport and the Environment, spoke in a debate in the Scottish Parliament about the strategic roads review. She indicated that there was no money to build any of the roads anywhere but, in a single paragraph,

she said that, by the way, she was ruling out the possibility of a bypass for Cumbernauld for ever. She did not announce any other decisions in that speech.

We have now reached the point at which money has become available and the road will have to be upgraded. Following the central Scotland transport corridor study, which was set up by the Government, the report that was produced shows that the study was specifically prevented from considering the Kelvin valley option. That is pointed out in the report because of a consciousness of the impact on Cumbernauld.

11:45

We are told that the road will be built through Cumbernauld. Although there will have to be a planning inquiry, if the terms of that inquiry are based on a comparison of the downside to Cumbernauld with the upside for the Scottish economy, the inevitable conclusion will be that the road has to be built. We concede that to the committee.

The principal issue is the terms of the local public inquiry. All we are asking is that the local public inquiry be allowed to consider both routes. It is as simple as that. We are not looking for the committee to reverse the minister's decision; we are asking that the local public inquiry be obliged to consider both routes.

I will deal briefly with what the impact of the proposed route would be. The inhabitants of 2,000 houses in Cumbernauld would suffer a significant deterioration in their air quality and the inhabitants of 2,500 houses would suffer a significant deterioration in the visual aspect of their property. Dr Moffat's evidence shows that the building of such a road in certain European countries, particularly Holland, would be illegal because of the environmental impact that it would have. The biggest single effect would be the division of Cumbernauld, which is already divided by the dual carriageway of the A80. According to the latest announcement, a significant part of the town will be divided by a three-lane motorway with a hard shoulder and the rest will be divided by a two-lane motorway with a hard shoulder. That would rip the heart out of the town. The existing divide between the people who live on different sides of the road would become significantly wider.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I do not want to say anything at this stage, although I acknowledge the right of constituents to petition the committee. I hope that through its questioning of the petitioners the committee will find out that there are two sides to the argument. I am particularly interested in the information that Ian Smart has provided about the number of

houses that would be affected by the air-quality issue, which I dispute. I presume that that information relates to the recommendations from the central Scotland transport corridor study.

**Ian Smart:** The source of the information is the strategic roads review, page 34 of which gives the exact figure.

**Andrew Wilson (Central Scotland) (SNP):** As one of the regional members for the area, I support the petitioners in their work. The Parliament has a democratic opportunity to react to the heartfelt and deep concerns of citizens in an important part of Scotland.

As Ian Smart has said, Cumbernauld is a growing town of significant size that sits at the heart of Scotland. People of all parties and of none are involved in supporting the petition, which presents a cross-community view. The effect of the proposal would be the destruction of a community that has had, and will continue to have, enormous potential. It would leave Cumbernauld as the only town of its size in the United Kingdom that has a motorway going through it and that does not have a bypass, if one does not count urban access motorways. The Government could apply tolls on the M80—the transport statements that have been made to date leave open that door—which could raise a serious issue for democracy.

Tens of thousands of families would be affected by the ripping out of the community's heart. The petition deals with a terribly important point and many petitioners and constituents are approaching members of the Parliament, councillors and others because they feel that things are being done to their community that they are powerless to stop. The Parliament must be seen to react to, and must react to, the petition positively. The committee should support the highly reasonable call for the public inquiry to take the form that is being asked for, and I encourage it to do so.

**The Convener:** Does Brian Fitzpatrick want to say anything?

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** I am here just out of interest.

**The Convener:** Before I invite questions from members of the committee, I want to put on the record that we have received more than 20 letters from members of the public and community-based organisations in the Kelvin valley area that indicate their opposition to the petition. We have also recently received a letter of opposition to the petition from Mr Rob Kay, who is the secretary of the Kilsyth community council, which he claims represents the views of 10,000 residents in Kilsyth. Of course, those objections come from the public and the communities in the area where the Kelvin valley route would go. There are therefore two sides to the argument.

**Dorothy-Grace Elder:** Mr Smart, if anyone ever needed a defender they would pick you because you packed so many points into your presentation. In advance of a public inquiry, is it possible for you to obtain an environmental impact assessment under European Commission rules? If 4,500 houses are involved, you should have the right to an EIA, but could you get it before a public inquiry takes place?

**Ian Smart:** I want to make two points clear. We are not talking about 4,500 houses in total but about 2,500 houses where the visual aspect will suffer and 2,000 where the air quality will deteriorate; obviously, some of those houses are the same.

**Dorothy-Grace Elder:** Yes, but both categories could be considered under an EIA. I have put them together although air quality is the more powerful problem. Is it possible to get an EIA?

**Ian Smart:** An environmental impact assessment will have to be done if a local public inquiry is held—there is no doubt about that—and there will have to be a local public inquiry. I repeat that the difficulty is that we know what the outcome will be if the only question put to the local public inquiry is “Do we bring to Scotland the major economic benefits that will flow from improving that route at the expense of people in Cumbernauld?” Opinion is unanimous that the road between Glasgow and Stirling requires to be upgraded, so the terms of the inquiry are critical.

**Phil Gallie:** I will put aside the Cumbernauld argument. Do you agree that when we are improving the roads infrastructure in Scotland, and the A80 in particular—which is a massive bottleneck every day of the year with the possible exception of Sundays—it is essential that the Executive look for best value for money?

**Ian Smart:** I am in no doubt about that. That is one of the interesting points about the issue. The Kelvin valley route is the cheaper option for a number of reasons. To be fair, although that is an argument, it is not our argument.

**Phil Gallie:** That is the point that I wanted to develop. Perhaps we should ask a roads engineer to give us some idea of the relative costs of the two roads.

**John Freebairn:** Setting aside the costings of the two roads, the disturbance to the local communities has not been evaluated. The consultants have indicated that there is a difference in the order of £20 million to £30 million between the cost of the Kelvin valley route and the cost of the A80 upgrade. However, those figures do not take into account the disruption, which would be considerable. Ninety per cent or more of the Kelvin valley route could be built off the existing route, with little or no disturbance to traffic.

It could also be built within two years if money were made available.

The Scottish Executive indicates that the A80 upgrade would be built piecemeal, possibly over eight to 10 years, which would mean continuous disruption for the local populace and the travelling public. A conservative estimate of the cost of delays to the nation since 1973 is £250 million in labour and fuel costs. In the past week, for example, five incidents on the road caused substantial tailbacks. Although tailbacks might benefit the Government from a fuel taxation point of view, I do not think that there is any question but that the Executive would benefit much more if it chose the Kelvin valley route.

Many people have considered the matter from an environmental point of view. Historic Scotland and Scottish Natural Heritage misled the then Government into deciding to go for the A80 upgrade. They said that the proposed Kelvin valley route would go through the Antonine wall, but it would go through only a 100m strip in an area where the wall has long since been removed by quarrying activities.

Historic Scotland and SNH were also concerned about the impact on the Kelvin valley where the road would cross the canal. The Babbie Group has selected the route sensitively. The entire front of the hill would be covered with pines, which would rehabilitate it to a limited extent. The road would be tucked in against the side and would be virtually invisible; if trees were grown in front of the road, it would be invisible to the people of Kilsyth. Where the road crossed the valley, it would be more than a mile from Kilsyth. It would cut across only 500m of the valley floor at a height of about 4m or 5m, which is lower than the aqueduct that was constructed across the valley to take in the canal feeder at Craigmarloch. People have been misled about the impact on the Kelvin valley.

**Phil Gallie:** You second-guessed my question. I was going to ask about the cost and the amount of traffic that uses that route. Would it benefit people in Cumbernauld and users of the central-belt route if the A80 ultimately became a relief road for the motorway? We would get two roads for the price of one with little added cost to the A80.

**Ian Smart:** The A80 would be detrunked. I return to the Government's air-quality statistics. The suggestion is that if the bypass were constructed, the air quality for 2,525 people would improve and the air quality for only 34 people would worsen.

As members know, one problem that would remain if the A80 remained the only route is that there is nowhere for the traffic to go when an accident occurs. People end up taking rat runs through Kilsyth or urban areas of Cumbernauld,

but the roads cannot support that traffic, which grinds to a halt. Members will remember the fire at the Castlecary arches about 18 months ago. The whole of the west of Scotland stopped for a morning because the road was blocked in one direction. The bypass route would provide an outlet that could be used in such emergencies.

It is important not to see the argument as one that polarises Cumbernauld and Kilsyth. I stay in Kilsyth, as does John Freebairn, who serves on Kilsyth community council. It is fair to say that that community council is now against the Kelvin valley route, but when the decision was taken, both it and the majority of Kilsyth's local councillors were in favour of that route. Opinion in Cumbernauld is overwhelmingly against the road, but opinion in Kilsyth is split. I say nothing other than that some people in Kilsyth are against the construction of the Kelvin valley route. However, I emphasise what John Freebairn said—some of those opinions are based on inaccurate anecdotes about the impact of that route on the valley.

**Helen Eadie:** Will you comment on our papers, which say that the decision was based on information that was gathered from the strategic roads review, the central Scotland transport corridor studies reports, comments from steering group members and the wider public?

**Ian Smart:** The central Scotland transport corridor study group's report says that its remit from the Scottish Executive was that it could not consider the Kelvin valley route. The group felt obliged to point out in its report that it was told that no alternative was available, because of some of its own conclusions about the impact on Cumbernauld. The reference to the central Scotland transport corridor study is a red herring.

**The Convener:** Did that group take the public's views about the Kelvin valley route as part of its study?

**Ian Smart:** No. It was not allowed to do so. As a result of Sarah Boyack's statement in October 1999, the Scottish Executive told the group that it could not consider the option of the Kelvin valley route.

**The Convener:** Were supporters of the Kelvin valley route not allowed to contribute to that study?

**Ian Smart:** The Kelvin valley route was specifically excluded from the study's remit. That is really all that our complaint is about. I emphasise that we do not want the committee to say that the decision should be changed; we want it to say that all the options should be considered.

12:00

**Helen Eadie:** Will you comment on the other aspects that I mentioned? The decision has been

informed not only by the central Scotland transport corridor study reports, but by the strategic roads review, members of the steering group and members of the public.

**Ian Smart:** The strategic roads review makes no recommendation; it is not that kind of document. You would have to read it. It recommends that the road must be built, which nobody disputes, but it then says that the road can be built on one of two different routes and gives the pros and cons of both.

The bizarre element is that the then minister said in a debate that there was no money to build any road and that the Executive wanted to consider further the public transport options, but the only decision that she announced was that the Executive was ruling out the Kelvin valley route for ever. I cannot overemphasise that.

An extremely important point is that, in giving grounds for that decision, the minister said that the Kelvin valley route would have a major impact on the Antonine wall. That is simply factually incorrect. The Scottish Office national roads directorate's "M80 Motorway Preferred Route Presentation" says that the route would not impact at all on the Antonine wall. The Scottish Office development department's "M80/M73 Steps to Hags Consultation" says that the alignment crosses the Antonine wall north of Croy at a site disturbed by quarrying and an existing road, which would result in moderate impact. The strategic roads review also says that the Kelvin valley route would not have a major impact on the Antonine wall. However, the minister suddenly announced that she was ruling out the Kelvin valley route for ever because it would have a major impact on the Antonine wall. The Antonine wall has not moved for 2,000 years and the line of the road has not moved at any time. Something is not right with that announcement.

When the announcement was made, nobody thought that the Kelvin valley route would be part of the decision. Everybody knew that there was no money to build the roads in 1999. Those who were in favour of the Kelvin valley route did not lobby the minister before the announcement in 1999, but we are now told that that decision is written in stone.

**The Convener:** I think that you said that at one point there will have to be a local public inquiry. As we understand the situation, the decision has been taken, the money has been allocated and there will be no local public inquiry. What is the position?

**Ian Smart:** Iain Gray's announcement last week was that the Executive has, in fact, not yet made a decision. He said that there are matters that need to be looked into further, but that there will be a

three-lane-plus-hard-shoulder motorway through the Condorrat section and a two-lane-plus-hard-shoulder motorway on the far side of Auchenkilns.

That further things need to be looked into is an incredibly opaque statement. Standard practice when building such a trunk road is to set the groundworks in such a way as to allow for the building of an additional lane at some future date. The announcement gives no indication of whether that will happen.

When Lord James Douglas-Hamilton was the minister in 1997, he said that a project of this nature would inevitably involve a local public inquiry. I would be—to put it mildly—disappointed if the Scottish Parliament were to be less consultative than Westminster proposed to be in 1997.

**The Convener:** Has your organisation made any representations to Executive ministers on that point?

**Ian Smart:** The announcement was made only last Wednesday.

**The Convener:** I am just trying to get the matter clear in my own head. The information that is given in our papers is that the decision has been taken. You are now suggesting that there may still be scope for a local public inquiry into that decision.

**Ian Smart:** There must be a local public inquiry. Houses will be demolished.

**Cathie Craigie:** Whether there can be a public inquiry is governed by statute. There are two types of objectors: a statutory objector or a non-statutory objector. Statutory objections would come from somebody who had a land interest, the local authority or some other public body. If there is one objection from someone with the status of a statutory objector, the minister would have no option other than to hold a public inquiry, but the inquiry would be to consider the proposal that was on the table. That is the information that I have. I will be surprised if there are no objectors to the proposal and no public inquiry. However, a public inquiry would not consider the proposal that my constituents are making to the committee today.

**The Convener:** So a public inquiry would not consider the petitioners' proposal.

**Cathie Craigie:** No. As Ian Smart outlined, the history of the project is that proposals have been made on and off. The people of Cumbernauld and the surrounding areas have been discussing the options for the road for 30 years and more. The town has grown up with discussions on the road.

During the 1980s and into the early 1990s, consultations allowed people the opportunity to give their opinions on whether the existing road



should be upgraded or a new route be built through the Kelvin valley. The proposed road has even changed names; it was called the green route, but I think that the Scottish Office civil servants felt that that name played into the hands of the environmental lobby. The names of the options were therefore changed from the green route and the red route to the Kelvin valley route and the online upgrade. An awful lot of money has been spent on consultants and people have spent a lot of time voluntarily in giving their opinions on whether the route should go through the Kelvin valley or whether the existing road should be upgraded.

It is well known locally that, in the 1990s, I took a position on the side in favour of the Kelvin valley option. In late 1996 or early 1997, the Secretary of State for Scotland announced that, following a long consultation, the Kelvin valley route had been discounted and the road would be upgraded on line. As Ian Smart said, John Prescott, who was then transport spokesperson, announced the strategic roads review in 1997. As people will remember, that review looked at all roads throughout the UK. Following that review, it was agreed that the Government would stand by the decision that was made in 1997, which was to rule out the Kelvin valley route.

During that period, from 1997 to 1999, there was an election for the Scottish Parliament. The position that I took locally was that I welcomed the strategic roads review, as it would take another look at all the options, including the Kelvin valley option and future traffic projections. At the time, I made it very public that I would stand by the outcome of that strategic roads review, which would come to a decision after all the information had been gathered.

The minister announced that the Kelvin valley option was ruled out and set up the transport corridor study. The corridor study looked not only at the traffic levels on the A80 corridor, but at all modes of transport within the A80 corridor and, for that matter, within the M8 corridor. That study recommended that the road should be upgraded to a four-lane motorway. I opposed that strongly and organised a local petition that was sent to the minister, who was the person who would make the decision.

Last week, the minister announced his decision. The proposal is that the existing road from Auchenkilns to Haggs will be upgraded to a two-lane motorway with hard shoulder and the road from Auchenkilns to Moodiesburn will be upgraded to a three-lane motorway. I am happy with the first part of the proposal, but I am not happy with the upgrade of the road to three lanes and I have taken up that point with the minister. Having read other parts of the report, I hope that that may even

have been a typographical error. There is local support for that stance.

In addition, part of the strategic roads review that was conducted through the central Scotland transport corridor study is a proposal for a new railway station at Castlecary and for improved train and bus links between Cumbernauld and Glasgow. The issue is not black and white and is not simply about what should be done about the road. The study took a wider view than had ever been taken before because it considered all aspects of transport within that corridor. Public opinion has changed since the 1980s and 1990s and people do not see the solution to transport issues as simply building new roads. I welcome the fact that a broader view has been taken.

The petitioners, who are my constituents, are right that when the strategic roads review and the multimodal study were announced for the area, the Kelvin valley option was ruled out. The options that the consultants had to consider were a motorway with increased road capacity, a limited upgrade or a bypass of Cumbernauld to the south. The bypass was ruled out and the recommendation was for a four-lane motorway, which is not acceptable to the constituents of Cumbernauld and Kilsyth. I have no objections to my constituents asking the committee to support their claim and to seek more information from the Executive on how it arrived at the decision.

I want the situation to move forward. People in the communities of Cumbernauld and Kilsyth suffer chronic problems when an accident happens on the A80. The main cause of accidents is the fact that there is no hard shoulder, which means that when there is a breakdown, the traffic cannot move on. The Auchenkilns roundabout is a major problem because if there is an accident or roadworks at the roundabout, the traffic diverts through Cumbernauld.

We cannot continue to talk about the issue for years and years; decisions must be taken now so that people can plan their future. People who live close to the road worry about house prices and whether they will be able to sell their houses when such uncertainty is hanging over them. We must find out what the future holds and find solutions to the problems.

**Ian Smart:** For the avoidance of doubt, I point out that we welcome much of what Cathie Craigie says. There is no doubt that her lobbying to downgrade the extent of the motorway that goes through Cumbernauld is welcome and we do not want to dismiss it. However, it is welcome on the basis of half a loaf is better than no bread.

We are strongly in favour of the improved access to public transport that was suggested in the review that was announced last week. Indeed,

we came here from Croy this morning by train on the upgraded service. We just wish that the authorities would get round to building the car park that has been promised for the past year and a bit. According to Wendy Alexander's announcement, that car park should be built by now.

None of that takes away from the central point, which is that, if there is going to be a local public inquiry, it should consider all the options.

**John Freebairn:** The downgrading of the proposal to widen the A80 to the proposal for a motorway with a limited number of lanes is actually a retrograde step. The road as it stands—it is a dual carriageway—was designed to take 40,000 vehicles a day, but at present it carries in excess of 70,000 vehicles a day and, by 2020, it will carry around 130,000 or 140,000 vehicles a day. That volume of traffic cannot fit on two or three lanes, which means that the road will require further upgrading in the near future. If we go ahead on the basis of those recommendations, that will be a bad step for Cumbernauld and Kilsyth and the surrounding areas because, without the full upgrade, the road will not be able to cope with the volume of traffic. It would be much cheaper to upgrade in one go than in bits and pieces.

**Andrew Wilson:** I want to refocus the committee's decision-making process on the key point, given what Ian Smart and Mr Freebairn have just said. The issue hinges on a Government decision in October 1999 to rule out a possible bypass for Cumbernauld. That decision was not subjected to proper scrutiny and the communities had no recourse. We will have a limited upgrade, which will leave the route open for a major upgrade in the future, which is likely given the volume of traffic that is involved.

If the families, citizens and communities in the area are to feel that they have been represented properly in their national Parliament, they must feel that decisions have been properly scrutinised. Therefore, in the first instance, a public inquiry is required and I hope that the committee will promote that to the Executive and support the argument that the inquiry should consider all the options properly. I am sure that everyone else will do so in the months ahead.

**The Convener:** The petitioners are free to listen to our discussion on what to do with the petition.

I draw members' attention to the suggested action. Thankfully, it is not the committee's role to decide between the Kelvin valley route and the upgrade of the A80. What we have to take into consideration is whether, in reaching the decision on the A80, the Executive has gone through the proper consultation procedures in relation to the strategic roads review and the central Scotland

transport corridor study. If we think that the Executive has done that, we can decide to take no further action on the petition. Alternatively, we could take the view that the Executive needs to explain further its decision to plump for the A80 upgrade and ask it to do so, as well as to explain why it decided to reject the Kelvin valley route. We could also ask for an update on the developments in relation to the latest proposal and about what appeal mechanism is open to the petitioners.

We should also ask the Executive whether, in the event of a public inquiry, both options would be considered or simply the same one.

12:15

**Phil Gallie:** It must be emphasised that this is not a Cumbernauld road or a Kilsyth road, but a Scottish road. The Scottish Executive must consider the road in those terms, including its impact on industry elsewhere.

If that will take too much time, I suggest that another solution would be to spend all the money on upgrading the M77 down to the Dutch House roundabout and providing the Maybole bypass. *[Laughter.]*

**Helen Eadie:** The alternative course of action that you outlined would be the most transparent route to take—excuse the pun.

**The Convener:** Do we agree to write to the Scottish Executive in the terms that I outlined and to keep the petitioners informed of the response?

*Members indicated agreement.*

### **Hedgehogs (Relocation from Uist) (PE581)**

**The Convener:** PE581 from Fiona Stewart, on behalf of the British Hedgehog Preservation Society, calls on the Scottish Parliament to take the necessary steps to enable the BHPS to relocate, or at least complete a trial relocation of, hedgehogs living on the islands of Uist as opposed to sanctioning the proposed cull of those hedgehogs.

Fiona and Tom Stewart are here to speak to the petition.

**Fiona Stewart (British Hedgehog Preservation Society):** While we agree that the hedgehogs on the Uists need to be removed from the islands, we believe that they can be relocated rather than culled. Hedgehogs are part of our natural heritage and the lives of these healthy wild animals should be respected and preserved. We should be trying to resolve the issue in a way that sets a good example to future generations.

Scottish Natural Heritage's mission statement is:

"to work with Scotland's people to care for our natural heritage."

Man intervened by introducing the hedgehogs to the islands and it should be up to us to find a way of removing them that benefits the hedgehogs as well as the birds that are currently under threat. We should not be killing 5,000 healthy hedgehogs in order to reduce predation on the birds, especially when there is an alternative.

The BHPS has access to scientists who have specific interests in hedgehogs and to hedgehog rehabilitators who have many years of hands-on experience of successfully relocating and releasing hedgehogs. Our relocation plan involves the use of such experienced people and vets to ensure the well-being of the hedgehogs and to certify that they are fit to travel. Males and immature females could be captured during the breeding season, but that would be possible only with experienced carers present to sex and assess the hedgehogs in the field. SNH does not have such experts.

The scientific reports that SNH used highlighted certain dangers to released hedgehogs. Those reports were based on 20 to 30 hedgehogs that were moved simultaneously to one area, while others were moved to an area that was heavily inhabited by badgers. No responsible carer would knowingly do that. In formulating its relocation plan, the BHPS has addressed those issues and has taken into account the relevant welfare guidelines.

Some suggestions that have been made by SNH have not been substantiated. For example, it has been claimed that there would be a 50 per cent death rate during transportation and that a spread of disease and pregnancy would occur within days of emergence from hibernation. If our proposals must be backed up with scientific evidence, surely so must the claims that SNH has made. If the feasibility study that SNH commissioned into a small-scale translocation had been developed soon after it was submitted in 2001, the case for relocating hedgehogs could already have been made scientifically.

We are simply asking for more time and that the cull be deferred for a season to allow scientific evidence to be collected in support of our arguments that the option of relocation has minimal animal welfare implications for both hedgehogs on the islands and the mainland hedgehog populations. During that time, the BHPS and other interested parties should be allowed to capture, record and relocate hedgehogs, some of which will be radio-tracked. Moreover, capture methods, time scales, transportation logistics and many other issues can be assessed and resolved in close liaison with SNH and RSPB Scotland. Any hedgehogs that are caught by SNH can be passed to us for relocation. When they are relocated, they will be off the islands and will no longer pose a

threat to the waders. If animal welfare is found to be compromised during the relocation exercise, the exercise will be halted and reviewed.

**The Convener:** Thank you very much for that presentation, which has been one of the briefest and best that we have had this morning.

Representatives from SNH will give evidence after you have been questioned by the committee. You will be free to listen to that.

**Rhoda Grant:** Given the stress that hedgehogs would suffer from being captured and moved, would it not be more humane to cull them?

**Fiona Stewart:** Although hedgehogs can suffer from stress, they are very good at travelling and adapt well. We relocate hedgehogs all the time. In fact, if they are taken a long distance and released into a completely new area, they can settle down within hours.

**Rhoda Grant:** How easy is it to catch hedgehogs? Surely we need to eradicate them, otherwise we will have to carry out this process year after year if we leave any breeding pairs.

**Fiona Stewart:** There are several ways of catching hedgehogs. However, because SNH would trap the hedgehogs anyway in order to cull them, we believe that we could work with the organisation, take the trapped hedgehogs and relocate them.

**Tom Stewart (British Hedgehog Preservation Society):** We could also work with crofters, who obviously know the land and where they are going. We do not want people tramping around, demolishing birds' nests and aggravating other people. It would be better and would cause less bother if SNH and the crofters were to get together with us and help out.

**Phil Gallie:** Several years ago, there were concerns about hedgehog populations on the mainland, particularly with the effects of cars on country roads. Is that still a problem?

**Fiona Stewart:** At the moment, Scotland has a settled mainland population of hedgehogs. However, the population is still declining in some areas of England.

**Dorothy-Grace Elder:** I feel that this country is not so bad if we have a hedgehog preservation society and kind people such as yourselves who put a lot of work into the issue. Perhaps it could be argued that, because of climatic changes, we need more hedgehogs in the British Isles. After all, we know that the hedgehog is the gardener's friend and the past two summers have been so wet that many gardens have been devastated, by slugs in particular. Have you approached the matter from that position?

**Fiona Stewart:** There are too few hedgehogs. Although populations have become stable over the past few years, they are smaller and—

**Dorothy-Grace Elder:** I am sorry—I am talking about the control of slugs and snails. People's gardens have suffered terrible damage and perhaps the hedgehog could be useful in that respect.

**Fiona Stewart:** We have relocated hedgehogs to large gardens, and the difference has been amazing. We have had an amazing response from people who are willing to foster the hedgehogs. In our area alone, 200 people have offered to relocate hedgehogs on their land and in large gardens, to which other gardens are adjoined, as they would like to have hedgehogs on that land.

**Dorothy-Grace Elder:** Because hedgehogs are so useful.

**Fiona Stewart:** Yes.

**The Convener:** For the information of members and the petitioners, I should point out that we have received a letter from Uisdean Robertson, the secretary of North Uist community council, indicating the council's support for humane lethal control as the only realistic option for the hedgehogs. We have also received a letter from Mr Bill Neil in South Uist, with a number of signatures, arguing that there is support on the islands for a humane cull of hedgehogs. Is there a division between the British Hedgehog Preservation Society outwith the islands and the local population, which supports Scottish Natural Heritage's proposal?

**Fiona Stewart:** Some—but not all—of the crofters say that they just want rid of the hedgehogs. They do not care how that is done, as SNH has taken years to decide what to do to save the wader birds—without involving the BHPS. Because the problem has lasted so long, many crofters are complaining and are starting to think that the quickest way of getting rid of the hedgehogs is to cull them.

**The Convener:** When Scottish Natural Heritage gives evidence to the committee, it will probably suggest that your proposed course of action is more a rescue plan than a scientific plan for dealing with this problem.

**Fiona Stewart:** We want to carry out a scientific relocation that will involve radio tracking.

**The Convener:** Scottish Natural Heritage will list a range of scientific criteria that, in its view, your rescue plan does not meet. What is your response to that?

**Fiona Stewart:** The full rescue plan has not yet been finalised, so no decision can have been made on it. The plan will not be finalised until this week.

**The Convener:** If Scottish Natural Heritage were to provide you with advice on the criteria that any relocation plan would need to meet, would you be happy to co-operate?

**Fiona Stewart:** We would meet all welfare regulations relating to the animals.

**Helen Eadie:** In the papers that we have read for the meeting, it is suggested that your plans do not take account of the possible threats to the hedgehogs from starvation, predation, human influences or diseases. How do you respond to that comment?

**Fiona Stewart:** SNH commissioned scientific studies that used 20 to 30 animals at one time. Nearly 30 animals were placed in one area where hedgehogs were already present. That is why they starved. No responsible hedgehog carer would put more than two or three animals on a site at one time, to ensure that balance is maintained. If 20 to 30 hedgehogs are placed in one area, they will die.

Another scientific study involved 20 hedgehogs being placed in an area that was densely populated by badgers, which kill hedgehogs. We would not relocate hedgehogs to such an area. We believe that the SNH studies are flawed.

**The Convener:** Would you like to make any other points before we hear from Scottish Natural Heritage?

**Fiona Stewart:** We are willing to work with SNH to save the hedgehogs.

**The Convener:** At this stage we normally consider what we should do with the petition, but on this occasion we cannot do that because we must listen first to what Scottish Natural Heritage has to say. The representatives from SNH are Susan Davies, Michael Scott and Dr Jeff Watson. Mr Scott, are you the deputy chairman?

**Michael Scott (Scottish Natural Heritage):** Yes, I am.

**The Convener:** We have received your written submission, but you may make an opening statement.

12:30

**Michael Scott:** Thank you for the opportunity to respond to the petition, not least because it gives us the opportunity to correct some of the misunderstandings and misinformation that have appeared in the media.

I am Michael Scott, the deputy chairman of Scottish Natural Heritage. I am joined by colleagues who can answer any awkward questions that you might come up with. Jeff Watson is the director with responsibility for this

particular area of our work, and Susan Davies heads our habitat and species unit.

Of all the issues that we have dealt with during the four years that I have been on the board of SNH, this is the one that has caused us the most soul searching and angst, not least because of the very evident concern and compassion of many individuals who have made representations to us. As the committee has already recognised and as the petitioner has agreed, our statutory duty is to secure the conservation and enhancement of the natural heritage of Scotland. Therefore, our prime responsibility is to address predation on the eggs of the wading birds of the Uists. Nobody has challenged that perspective, or the urgency of the matter.

As you have also rightly recognised, although a range of options has been considered, there are only two practical options: moving the hedgehogs off the island or killing them. The board of SNH is absolutely of the view that any killing must be done humanely by lethal injection.

A lot of evidence was presented to the board. We saw some of the largest compendia of papers that I have ever had to deal with. Our decision on translocation was based on three issues. First, there is no conservation justification for translocation. Hedgehogs are common and not threatened on the mainland. Secondly, translocation is not a practical option to achieve our objectives. Thirdly, we had advice from the likes of the Scottish Society for the Prevention of Cruelty to Animals that translocation was the option that was likely to cause most suffering to the animals. We therefore felt that translocation was unacceptable.

On the basis of all that evidence, the board reluctantly concluded that a programme of humane lethal control was the only viable and acceptable solution. Given the urgency of the situation and the fact that the hedgehog population is still expanding on North Uist, we agreed that the work has to start this spring.

I make it clear to the committee that the intention has always been that the process will be stepwise. It will take several years to achieve. We are not going to be killing 5,000 hedgehogs this spring. In fact, we intend to begin work on North Uist and we reckon that we will be doing well if we can catch and humanely kill 200 hedgehogs this spring. There is therefore time for many of the issues raised by the petitioner to be addressed.

**Phil Gallie:** You said you will kill 200 this spring. What is the hedgehog breeding rate? If there are 4,800 hedgehogs left, will they breed faster than you can kill them?

**Michael Scott:** Yes, they will. This is one of the problems, as well as being a relevant question to

ask when talking about whether there are enough hedgehogs on the mainland. The 5,000 hedgehogs on the Uists have the capacity to produce 10,000 young this year. It is a seriously accelerating process. That is why we believe that the only practical way is to start on North Uist, where there are only 300 hedgehogs, and ensure that the hedgehog population does not expand there. We should then move stepwise and south over the following years.

**Phil Gallie:** Your system for destroying the hedgehogs is one where you have to catch the animals first. Given that it is a rolling programme that you said will take three years, although I suspect that it might take longer, why would it not be practical to allow the BHPS to carry out some kind of scientific activity—with the BHPS picking up the costs—to distribute and track some of the hedgehogs to establish whether they settle into their new environments.

**Michael Scott:** We are happy to co-operate with a properly set up scientific programme to examine that issue. Perhaps it would be more appropriate if Dr Watson responded to that point.

**Dr Jeff Watson (Scottish Natural Heritage):** We have had a number of representations from organisations including the BHPS regarding discussions with us over the kind of scientific translocation trial that could be carried out. We have offered to have a meeting next week and we hope that we can use that constructively to examine what a scientific trial would entail. What we have seen so far falls short of what would be required by a scientific trial, but we believe that there is considerable room for discussion.

We are uneasy about whether such a trial could be set up in time for April, when the hedgehogs come out of hibernation and action will be necessary. Our priority is to consider the action that must be taken at that point but, given the length of time that the operation will take, we see an opportunity to continue to develop a workable solution with others that might include options other than humane lethal control. However, we do not think that, if we want to bring the hedgehog population down to close to zero, it would be possible to discount the use of lethal control.

**Phil Gallie:** I do not expect you to discount that option. I am pointing out that there is an alternative, which would involve activities going on in parallel. I remind you that you are dealing with voluntary organisations while SNH is a well-funded organisation with the backing of the Government. What would your idea of a scientific trial mean for the voluntary organisations?

**The Convener:** What would it cost?

**Dr Watson:** We need to identify the uncertainties that exist over the welfare concerns,

as they are what is driving the decision. If we can do that without an excessive cost implication for the organisations, we shall do that. However, first, we need to have discussions. We also need to be advised by the SSPCA, which has the appropriate expertise with regard to the level of health and safety that might be expected.

**Dorothy-Grace Elder:** This is an issue of huge public concern and people in the street do not want the hedgehogs killed, but you propose to use public money to kill the hedgehogs. You say that it will cost £78,000 to £80,000 a year to proceed with a programme of humane lethal control. You mentioned that you might kill only 200 hedgehogs across the Uists in the first year and that another option, which would also feature humane lethal control, which is a euphemism for killing them, would cost £170,000. However, the protesters have raised £50,000 in order to save the hedgehogs. Why does killing the hedgehogs cost so much? Why is it so important that you kill the hedgehogs?

**Michael Scott:** It is important to kill them because the Uists are one of the last strongholds for a range of wading birds. Since the hedgehogs were taken to the islands, the population of the birds has halved. Under our statutory duty, we have a clear obligation to address that issue. Something like 15 per cent of the British population of some of those bird species have been killed by hedgehogs on the Uists in the past 20 years.

We clearly have a moral obligation. As well as the statutory duty, there is a European element—the European birds directive—that we have to recognise, so there is an imperative to get on with the work quickly. Perhaps Susan Davies can address the costs more effectively than I can.

**Susan Davies (Scottish Natural Heritage):** In the lead-up to the board's decision, a lot of effort went into testing different methods of capture to establish the efficacy of those measures. Given the difficulty of capturing hedgehogs, it would take a team of trained fieldworkers going out in the evenings and using spot-lamping seven weeks to locate and capture only about 200 hedgehogs. Considering the intensity of effort required and the infrastructure that would need to be put in place for humane lethal control, you can see how the cost was arrived at of £78,000 to £80,000.

**Dorothy-Grace Elder:** No, I still cannot see why it would be as much as that.

**Susan Davies:** The costs from the BHPS would not include doing the fieldwork for the capture. That is where the costs would start to mount up, because of the need for training. After capture, there would be only a short time—two weeks—in which the animals could be relocated. However,

we would be able to capture over a seven-week period to proceed with humane lethal control.

**Dorothy-Grace Elder:** You talk about the diminishing number of waders. It is a birds v hedgehogs argument, but the waders seem to have a special privilege. Are you sure that the hedgehogs are entirely guilty of reducing wader numbers by damaging the eggs or could any other species be a predator on the eggs?

**Michael Scott:** The hedgehog is the only new factor in the equation in the Uists. Those breeding birds were doing perfectly well before the hedgehogs were introduced, supported hugely by the traditional crofting system that, fortunately, is still flourishing in those islands. At least four hedgehogs were introduced there in 1974, and the population has exploded since then. Experiments have been carried out to attempt to fence off some of the key breeding areas.

**Dorothy-Grace Elder:** Had any other species threatened the birds, or had they lived in a blissful situation with no predators before the hedgehogs arrived?

**Michael Scott:** No, they obviously have other predators in small numbers.

**Dorothy-Grace Elder:** Such as?

**Dr Watson:** There will be predation on eggs by gulls, which are naturally present in the Uists. We recognise that. However, a striking distinction exists between the situation in Benbecula and the situation in North Uist, where the hedgehog population is still not finally established. The breeding success in the two wader populations is dramatically different: the success rate is much higher in North Uist and has not changed since the early surveys were undertaken in the 1980s. That, along with the fencing enclosures, which have shown how breeding performance can be improved by excluding hedgehogs, is the convincing evidence. Part of the reason for the delay in deciding the solution has been that we have had to be absolutely sure that hedgehogs are the substantial problem.

**Dorothy-Grace Elder:** Do you have any proof—for example, film of the hedgehogs destroying eggs?

**Dr Watson:** Yes.

**Dorothy-Grace Elder:** Many hedgehogs, or just one or two incidents?

**Dr Watson:** Most of the predation takes place at night, and we have a good deal of evidence from looking at the rate of disappearance of eggs. The vast majority of the eggs disappear at night and their disappearance can be attributed to only one predator—certainly not to gulls.

**Dorothy-Grace Elder:** I am sorry to ask so many questions. However, if the hedgehogs were in court and had a smart lawyer, they would get a verdict of not proven. I would guess that you do not have many incidents on film.

**Dr Watson:** There is a huge amount of scientific evidence that confirms that hedgehogs are the principal reason for the 50 per cent decline in the wader population over the past 20 years.

**Dorothy-Grace Elder:** Is it evidence, or is it an assumption that hedgehogs are the likeliest predator?

**Dr Watson:** It is solid, scientific evidence based on experimental removal. It has been demonstrated that, when the hedgehogs are removed by the erection of a small, fenced enclosure, there can be a dramatic and immediate recovery in the breeding population of waders.

**The Convener:** It sounded as if Dorothy-Grace was after a European convention on hedgehog rights.

**Dorothy-Grace Elder:** You could see that one coming.

**John Farquhar Munro:** Most of the questions that I had in mind have already been picked up by my colleagues, but I wanted to ask what first prompted the suggestion that there was an over-population of hedgehogs in the Uists? Was there genuine concern in the community or was research carried out that determined that there were too many hedgehogs and that they were causing environmental and wildlife problems?

12:45

**Michael Scott:** It is not so much that there is an over-population of hedgehogs, but that there is a population of hedgehogs at all. Hedgehogs do not belong on the Uists, which are one of the last island groups from which hedgehogs were absent. They are still absent from the long isle. It is now pretty clear from the scientific evidence that Dr Jeff Watson has been describing that the absence of hedgehogs was the main reason why wading bird populations continued to flourish there so strongly. I should point out that bird watching is a significant tourism industry on the Uists and helps considerably to support the local economy. One reason why there is such strong anti-hedgehog feeling on the islands is because of the regrettable problems that those animals are causing.

**John Farquhar Munro:** Do you agree that wild bird populations—on Uist or on the mainland—have been declining for several years?

**Michael Scott:** Of course they are declining, because of a whole range of problems. Jeff Watson's point was that, on North Uist, those bird

populations are continuing to flourish. North Uist is the island where the hedgehogs are just beginning to arrive, and we are extremely worried that, unless something is done very quickly indeed, the population will rapidly explode there and the same thing will happen on North Uist as has already happened on Benbecula and South Uist.

**John Farquhar Munro:** How successful would the exercise to get rid of the hedgehogs be—either by relocating them or by disposing of them altogether? Your estimate was that you could catch only 200 hedgehogs in seven weeks, and Mr Gallie calculated that the hedgehogs would reproduce quicker than you could remove them. What will the end result be?

**Susan Davies:** The catch effort for North Uist would involve taking around 70 per cent of the population. Other factors that we need to model into an overall demographic picture include the summer and winter survival rates. Many of the juveniles that will be born in the coming summer will die anyway over the winter, so by taking out 70 per cent we will start to make a dent in the population. We will then start to move south and continue to look at how the overall population is changing as a result of the different levels of effort that we can put in. We will also study the impact on the wading bird population.

There will be a continual process. We must gather information and model the effect on the overall population. However, evidence to date has suggested that we can make a significant dent in the population by taking animals over a longer period of seven weeks in a season, rather than just two weeks, which would be applicable to translocation.

**John Farquhar Munro:** The hedgehog has to be trapped or caught before you introduce any sort of humane disposal. You are not permitted to attack the habitat or the nest, are you?

**Dr Watson:** There would be more efficient ways of removing the hedgehogs from the Uists than that which we are proposing, but we believe that those methods would be cruel. They would lead to suffering, with effects on unborn young and on animals that could not be killed humanely. We have therefore sought to use a method that will remove any risk of cruelty, and that is both costly and time consuming.

**Helen Eadie:** Having read many Mrs Tiggywinkle stories to my two daughters when they were very young, I can see why many members of the public are quite excited about the issue. One of the questions that comes to mind is how you can justify what is proposed to animal lovers across the United Kingdom. The subject is very emotive. People become upset when the culling of seals, hedgehogs or other animals is discussed.

**Michael Scott:** That is obviously the key question. I did not join the board of SNH to be involved in authorising the killing of any animals and the matter saddens me deeply. However, I would rather use the argument the other way round. The proposals illustrate the irresponsibility of those who took the hedgehogs to the islands in the first place, albeit that they potentially had the best will in the world. They are the culprits. That there is a proposed cull is not the hedgehogs' fault—it is the fault of those who ill-advisedly took the hedgehogs to the islands in the first place.

It is clear that we still have a significant job to do in explaining to the public why a cull is necessary. We are committed to measures to protect and conserve hedgehogs on the mainland, where they belong, have a valid place in the ecosystem and have a great deal to contribute. Unfortunately, the advice that we have received from the SSPCA and others is that what seems to be the ideal solution of moving them is inhumane and SNH strongly believes that it has an ethical responsibility to take account of that advice.

**Helen Eadie:** How seriously do you think the Scottish public take SNH when it spends almost £200,000 on such an issue? I know from my sources that SNH gives money to the royal purse, for example, through grants. We as politicians must use the language of priorities—which is what politics is about—and choose between patients in the Western general hospital having an extra scanner or SNH spending £170,000 on culling hedgehogs. Do you understand why the great British public and particularly the Scottish public ask why politicians do not take issues much more seriously and ask why £170,000 should be spent on killing hedgehogs as opposed to ensuring that the Western general hospital gets a new scanner?

**The Convener:** To be fair, such a decision is probably for politicians rather than SNH to take. The politicians give SNH a budget.

**Michael Scott:** I was going to say that we were given a statutory duty—admittedly, the Scottish Parliament did not give us that duty, but the Parliament inherited responsibility for it. We are given a budget that we think is far too limited and we must take difficult decisions about how best we should spend it. Such decisions are incredibly difficult, but I remind members that many people care deeply for and get a huge kick out of wild birds. I also remind members that people in the Uists seem to be saying to us that the issue should be addressed and that they see the problems that the hedgehogs are causing.

**Helen Eadie:** One issue concerns saving people's lives, whereas the other concerns people's quality of life through having birds, for example, on our land.

I have two questions that you might be able to answer. Dorothy-Grace Elder asked about other factors that might lead to the birds being killed. It has been suggested that the number of rats in the country and possibly in the Uists is increasing. Would you say something about that?

Secondly, a two-week period was mentioned. Why would the hedgehogs be taken in only a two-week period?

**Susan Davies:** Best-practice guidelines are laid down that state when animals can be translocated. The hedgehogs will emerge early in April and within a two-week period, they are likely to be nursing young animals. We would not wish them to be removed when they have young animals. Obviously, there is a longer period of time during which the animals can be taken for humane lethal control purposes.

**Dr Watson:** That is correct. I want to clarify the situation. It will be difficult to tell what stage the pregnant females are at. The advice that we have is that moving pregnant females is intrinsically inhumane or cruel. We cannot judge the stage of development of the foetus. Later on, another restriction will apply—there will be young underground. That is the limiting factor in relation to culling. It is why we must say that we cannot continue to cull after the end of May, because there would be a high risk of leaving unattended young underground. Although taking those issues into account makes the exercise very difficult, we believe that we have to do that, on moral grounds.

**Helen Eadie:** My other question was about the rats.

**Dr Watson:** The main evidence that I can give on that concerns the difference that hedgehog-proof fences have made on North Uist and South Uist, which both have rats. The hedgehogs are the principal and only factor that has a bearing on the bird population. The experiments that have been done have involved placing hedgehog-proof fences on the ground. Although those fences are certainly not rat-proof—rats are perfectly able to get past them—they have resulted in dramatic increases in the bird population. If rats were the cause of the decrease in the bird population, the hedgehog-proof fences would not have made a difference, but they have made a clear difference.

**Dorothy-Grace Elder:** Although you talk about a hedgehog cull, you say that the species should not be on the islands of Uist. Is it not your goal to remove all hedgehogs from the islands in the reasonably short term?

**Michael Scott:** Yes is the short answer. We would not be using public money in a responsible way if that were not our ultimate objective. The primary objective is to eliminate predation on the birds' eggs. If we did not at least set ourselves the



objective of completely eliminating the hedgehogs on the islands, there would be a considerable on-going cost, because hedgehogs rather inconveniently manage to reproduce rapidly and in significant numbers.

**Dorothy-Grace Elder:** So we are not talking about a cull, which is how we have understood the process so far. We are talking about the eradication of hedgehogs from the islands.

**Michael Scott:** I think that the documents that we have produced make it clear that that is our ultimate objective—if it is practical. The other advantage of proceeding stepwise is that it will allow us to assess the likely cost. The process could reach a cost that even we could not justify.

**Dorothy-Grace Elder:** As you are experts in the field, I am sure that you accept that changes in the population of species can occur over a period of decades and that they sometimes occur in just a short span of years. Car ferries and aeroplanes, for example, have allowed breeds of cats and dogs to reach parts of the world in which they were never meant to be. Nonetheless, they survive there.

**The Convener:** It is 1 o'clock now. I ask you to get to your point.

**Dorothy-Grace Elder:** Why should the hedgehogs not be on the islands of Uist? You are ruling that they should not be. No one else is pushing for what you propose.

**Michael Scott:** Someone else is pushing for it.

**Dorothy-Grace Elder:** Who?

**Michael Scott:** Ultimately, the European Commission would push for the removal of the hedgehogs. I have deliberately not played that card, knowing the response that it might receive from one gentleman on the committee. We have a responsibility under the European birds directive, because the Uist islands have been set aside as special protection areas for birds. Although the primary motivation for the proposed action is concern for Scotland and for those birds, an injunction from Europe would force us to act at a later stage, if we were not to do so now.

**Dorothy-Grace Elder:** I want to ask a final question, if that will not try the convener's patience too much. How long does it take for a hedgehog to die from a lethal injection?

**Susan Davies:** We would have to take veterinary advice on that.

**Dorothy-Grace Elder:** Surely you should know that already.

**Dr Watson:** We have spoken to the Scottish Society for the Prevention of Cruelty to Animals and to vets about the issue. They have advised us

on the method. The injection takes a matter of minutes.

**Dorothy-Grace Elder:** Tell us how it is done.

**Dr Watson:** I understand that there are two stages in the process. The first stage is that the animals are anaesthetised. The second stage is the lethal injection. That is the most humane method.

**Dorothy-Grace Elder:** How are they anaesthetised? After all, you are catching them at night with lamps and things.

**Dr Watson:** They need to be taken to a centre where they are anaesthetised by a qualified expert.

**Dorothy-Grace Elder:** Is that by injection or by gas?

**Dr Watson:** I can certainly provide you with further details on that. However, I can tell the committee that we are absolutely following expert advice on what is a standard and acceptable method.

13:00

**The Convener:** Dorothy-Grace, we need to move on. It is 1 o'clock now, and another committee is using the room at 2 o'clock.

**Phil Gallie:** Mr Scott referred to those who introduced the hedgehogs to Uist. Presumably they managed to transport the animals without needing any scientific back-up. Why cannot people who have expertise with hedgehogs manage to do the same without the need to develop a scientific scheme?

**Dr Watson:** The scale of the challenge is very different. People have mentioned that there were four animals to begin with, but we do not know how many animals were originally taken to the islands, how many died en route and so on. There is some mystery about that.

**Phil Gallie:** Given that the numbers have reached 300, they seem to have been very successful.

**Dr Watson:** They have been very successful. That said, if the matter is wholly dependent on translocation, it will be a huge exercise. As a result, there will be a huge welfare concern.

**The Convener:** One final question must be cleared up. You said that you have to take action this spring. However, you will cull only 200 hedgehogs, which will leave a population of 4,800 across the two Uists. Is it possible to postpone the cull for a year to allow further negotiations to take place with the British Hedgehog Preservation Society about a scientific approach to relocation?

**Michael Scott:** We could do that, but I remind the committee that, based on the sums that we have in front of us, the 300 hedgehogs on North Uist will produce 600 young this year. That means that we will have 900 to deal with next year.

**The Convener:** I accept that the situation has to stop at some point, but surely there is no overwhelming reason why there could not be a year's grace to discuss the matter with the BHPS.

**Michael Scott:** I accept that there is no overwhelming reason, but the board feels very strongly that we have delayed this work for a number of years to consider other alternatives. I regret the killing of any animal, but given the relatively small number of hedgehogs that we are talking about, we believe that the right way forward is to cull the hedgehogs while discussing with welfare organisations whether adequate scientific research can be put in place. We might be able to come together in that way. If an acceptable experiment were on the table, we would not insist that a certain proportion of the hedgehogs caught this year be killed. However, we should start the process, and culling will have to be a part of it.

**The Convener:** So there is room for negotiation.

**Michael Scott:** Definitely.

**The Convener:** Okay. We really have no more time for questions. We must be out of the room by a certain point to allow another committee to come in and other petitioners have been waiting for a long time to hear other business. Thanks very much for your evidence.

We move on to the suggested action on the petition. We welcome the fact that SNH is prepared to discuss the issue further with the BHPS and the petitioners. It is suggested that we agree that that is the best course of action; that we might want to establish with SNH the likely time scale for discussions with the petitioners and similar groups, given that either a cull or relocation of the hedgehogs will be required by April 2003; that we urge SNH to look favourably on any translocation proposals as far as they meet scientific requirements; and that we ask the organisation to keep the committee informed of the outcome of its forthcoming meeting with the petitioners and associated groups so that we can consider any further action that might be necessary. Do members have any other recommendations?

**Dorothy-Grace Elder:** I wonder whether we should recommend that a questionnaire be issued to the population of the islands to find out what it thinks. There seems to be something of a democratic deficit.

**The Convener:** You are now talking about incurring costs. It would perhaps be best if that

matter were discussed by the petitioners and SNH. Any islands-wide survey would add hugely to the cost of any plan that might rescue the hedgehogs. Indeed, such a step might not even be in their interests, because it might delay things and put SNH off the idea completely.

**Dorothy-Grace Elder:** I also feel that SNH should inform the committee in detail about how it proposes to kill the animals. After all, it must surely know how that will happen. Its representatives have mentioned giving the hedgehogs a lethal injection once they have caught them and then talking them elsewhere, but we should know the exact method of killing and whether they will be hit over the head, gassed or whatever.

**The Convener:** We will certainly ask SNH to assist with the discussions on the scientific relocation as an alternative to the proposed cull.

**Helen Eadie:** I suggest that we agree the recommendations that the convener has put to us, particularly the point about the timetable, which is important. Dorothy-Grace Elder's comment that hedgehogs are good for gardens sparked the thought in my mind that perhaps we ought to ask tourism bodies to mount a major tourist promotion to encourage people to go to South Uist and North Uist in the Easter holidays. People could hunt for and adopt a hedgehog and take it back to their garden. We will all have to visit the islands and uplift a hedgehog.

**The Convener:** You may say that, but the Public Petitions Committee cannot possibly do so.

Do members agree to write to Scottish Natural Heritage and to request a detailed response on its meeting with the petitioners?

**Members indicated agreement.**

**Phil Gallie:** I will go along with the recommendations, but we should specifically urge SNH to consider a transportation exercise. I accept reluctantly that there is a need to cull the hedgehogs, but I want SNH to assure us that it will do everything in its power to transport as high a percentage of the hedgehogs as possible.

**The Convener:** I thank the petitioners for their evidence. We will keep them fully informed of correspondence between the committee and Scottish Natural Heritage.

## Current Petitions

**The Convener:** Given the late hour and the fact that another committee, of which I am a member, meets in this room at 2 o'clock, I have a suggestion for dealing with the rest of the agenda. MSPs and members of the public would like to take part in the discussion on some of the current petitions, which are PE327 on organic waste spread on land, PE551 on the provision of residential and respite care for the elderly, PE500 on the Scottish Transport Group pension funds, and PE582 on the Scottish fishing industry. I suggest that we deal with those petitions now and leave the remaining current petitions and the rest of the agenda until the next meeting. Is that suggestion agreed to?

**Members** *indicated agreement.*

### Organic Waste Disposal (PE327)

**The Convener:** PE327 is from Mr Duncan Hope on behalf of the Blairingone and Saline action group. We referred the petition to the Transport and the Environment Committee, which appointed a reporter and issued a report on the matter, as a result of which the Executive published a consultation paper. Later, we received a letter from George Reid MSP calling for further investigation into the health aspects of the petition. We agreed to appoint Dorothy-Grace Elder to consider the case for an inquiry. We also appointed a medical adviser, Dr John Curno, to assist Dorothy-Grace Elder.

The Transport and the Environment Committee has formally referred the petition back to us. I ask Dorothy-Grace Elder to report on progress and suggest further action.

**Dorothy-Grace Elder:** Dr Curno has just been formally appointed, but he has been most helpful and has done a power of work already. Our investigation is progressing well, but the time span is a problem—our commission from the committee was to produce a report in a short time span. The Transport and the Environment Committee has produced a report, but this one will focus on health issues.

Dr Curno and I intend to visit a number of people and bodies, including Snowie Ltd, which has invited us to visit it in situ. I have visited the village, and Dr Curno and I will go back there. I am trying to arrange a public meeting, but the village hall is closed—that is the tragedy of little places.

In view of the time span, I ask the committee to consider interviewing certain key people at an evidence session in Edinburgh. Many of those people were on the environmental hazard investigation team, but one or two others would be needed.

I will explain the situation. The Scottish Parliament has been praised by the villagers for its openness throughout, for Andy Kerr's report, for George Reid's work and so on. Andy Kerr's report, like the Scottish Environment Protection Agency, recommended that a special group be set up to look into the Blairingone situation. The villagers waited to see what would happen. Several months passed, then they received a letter out of the blue telling them that the investigation team had met twice, was going no further and was signing off.

The team was set up without the knowledge of the petitioners or the MSPs who knew most about the subject. The team met in Stirling and did not go to Blairingone. I think that it not only would be useful but is essential for members of the team to give oral evidence to a meeting of the Public Petitions Committee. Rather than going round each one, it would be better to bring them together, because they were a team at private meetings at which no public representative was present.

**The Convener:** Dorothy-Grace has already raised the issue with me and with Steve Farrell, the clerk. It would be possible to fit her suggested evidence-taking session into the meeting scheduled for 11 February, if members agree. Is that agreed?

**Members** *indicated agreement.*

**The Convener:** Is that okay, Dorothy-Grace?

**Dorothy-Grace Elder:** I forgot to add one further name. I will confer later with the clerk on numbers, but I would like to call Tricia Henton, the former chief executive of SEPA, who has expressed views on the issue. I think that her attendance would be useful.

**The Convener:** We can invite her on your recommendation.

**Dorothy-Grace Elder:** I do not know whether a general practitioner practice might have to be represented. We might manage without that. Thank you so much, convener.

**The Convener:** You can liaise with Steve Farrell about the key people who should be invited. We will pursue the issue further in Public Petitions Committee evidence sessions.

### Scottish Transport Group Pension Funds (PE500)

**The Convener:** The next petition is PE500, which is a big one. The petition is about the Scottish Transport Group pension fund surplus. Members will remember that we have dealt with petition PE500 on at least five previous occasions. Last time round, we sought further responses from the Treasury in London—indeed, from the

Chancellor of the Exchequer—and from the Executive minister responsible, Lewis Macdonald. We have their responses, which are detailed in the papers that members have before them.

I have received a letter from Dennis Canavan on the issue. Members will remember that he was one of the MSPs who strongly supported the petitioners. Dennis Canavan challenges the version of events that we heard from the minister and the Financial Secretary to the Treasury, Ruth Kelly. I will read out some of Dennis's points for the record. First, in relation to the Financial Secretary to the Treasury's response, Dennis writes:

"Ruth Kelly states that your letter to Gordon Brown highlighted that she would shortly be meeting with MPs, members of the TGWU and members of the Scottish Bus Group Pensioners Action Committee. That is not accurate. Your letter in fact noted that the Financial Secretary to the HM Treasury was to meet a number of MPs and members of the TGWU. I understand that Ruth Kelly did meet with two Westminster MPs and representatives of the TGWU on 10 October 2002 but no meeting has taken place between any Treasury Minister and representatives of the Scottish Bus Group Pensioners Action Committee. I think therefore that your request for such a meeting should be pursued, especially as Ruth Kelly has not indicated an absolute refusal of your request."

What are members' views on that?

**Helen Eadie:** I agree with that suggestion.

**The Convener:** I suggest that we write back to Ruth Kelly, drawing to her attention the fact that she has not met the pensioners' representatives. We can suggest that she consider meeting the pensioners' representatives and the pensioners' legal advisers directly. Is that agreed?

**Members indicated agreement.**

**The Convener:** Dennis Canavan has other detailed responses to what Lewis Macdonald said. However, the Scottish Executive has no control over what happens. The outstanding £50 million that the pensioners still seek is under the control of the Treasury, as is the question of double taxation by the Inland Revenue. Those issues must be pursued at the Westminster level. I suggest that the Public Petitions Committee suggests to Ruth Kelly that she meets the pensioners and their legal representatives, who could pursue the issues with her rather than get involved with the Executive, which at this stage can do no more.

**Helen Eadie:** Can we also copy all the correspondence to Cathy Peattie, Sylvia Jackson and Dennis Canavan? I think that they should be kept on board.

**The Convener:** I suggest that we should also include Fergus Ewing. Is that agreed?

**Members indicated agreement.**

## **Elderly People (Residential and Respite Care) (PE551)**

**The Convener:** Our next petition is PE551, from Pat Brown, on care of the elderly. It relates to South Ayrshire Council's decision to close St Meddan's Court in Troon which, when the petition was first received, housed 16 residents. It says that the council used the home's inability to meet standards that are required by the Regulation of Care (Scotland) Act 2001 as a reason for the closure. We have written to the Scottish Executive, the Convention of Scottish Local Authorities and the Scottish Commission for the Regulation of Care. They have all responded, as detailed in the papers before members. Before I turn to the suggested action and response to the letters from the three bodies, a number of members want to speak.

13:15

**Mr Adam Ingram (South of Scotland) (SNP):**

As far as the committee was concerned, the key issue from the first hearing was whether the Regulation of Care (Scotland) Act 2001 was having unintended consequences by putting councils in a position whereby they could not afford to bring residential homes up to the new standards. It appears that in the case of St Meddan's Court in Troon, the council's version of events is not accurate. The care commission carried out a formal inspection of the home in November and, consequently, the home has been reissued with its registration under the new act. It was registered under the new act last April, so it would appear that the unintended consequences of the act have not come to pass. The council's reasons for closing the home are not related to the new act—that is the substance of the matter. It is clear that local politicians have been taking up the matter and challenging the council about its decision and the reasons for it.

**John Scott (Ayr) (Con):** I welcome the Public Petitions Committee's investigation of the matter. I am concerned that the Regulation of Care (Scotland) Act 2001 appears to be creating such situations not just at St Meddan's Court but elsewhere. I am also concerned that the council appears to have jumped the gun, because planning permission was given by the council's planning committee before the committee heard the petition.

However, I believe that the council has probably acted properly in terms of the law and the regulations that will need to be adhered to by 2007, but I am naturally dismayed that nine old people might have to be removed forcibly from their homes on 1 April. I do not understand why there has been such a rush to do a deal, especially after the matter was raised at the

committee and after the planning application was called in.

**The Convener:** We are in a very fluid situation, which has changed even since the papers were issued to members. For example, the response from the care commission, which is detailed in the papers that have been given to us, did not make the point that the home has now been reregistered, so we did not appreciate that fact before the meeting. The position indicated is that the council was prepared to see the residents remain together as a group in Troon.

An update from the council has been given to the clerk. I shall say what it contains, because it is not in the papers that members have. The council intends to go ahead with the proposal to close the home and move the residents. An alternative facility will be provided at Crosby Towers. Residents will move as a group, they will remain in Troon and they will have the same staff; those are the three requests that the residents made. The Executive has called in the planning application for the Hanover Housing Association development, which is standard practice, given the council's involvement in it. The care commission carried out its regulation inspection of St Meddan's Court in November. The council received that last week and is considering its response, but the document is not yet in the public domain. The registration process has already begun in relation to the new accommodation.

The constant drip of information into the committee makes it difficult for us to arrive at a clear position. The petition touches on other petitions that we currently have before us, for example PE576, the recently submitted PE599—which is not yet on the agenda, but will be on a future agenda—and another petition that the committee received recently. It is suggested that we link PE551 to those other petitions, on some of which we await responses from the Executive. We should deal with all the petitions when we can see the picture that is emerging around Scotland. The clerk has reminded me that it must be stressed that we cannot act as a court of appeal against decisions that are taken by South Ayrshire Council. It is for the council, as the elected authority in the area, to take those decisions; we cannot countervail those decisions. We must consider the legislative framework and see whether there are lessons to be learned.

**Phil Gallie:** I accept that we cannot make a judgment on the matter and that it is the council's responsibility. However, I feel that South Ayrshire Council has acted in a most inappropriate way in coming to a settlement on the funding and on the planning process while the committee is still in the process of deciding on the matter as it was waiting for information to come back from the Scottish

Executive. It seems to me that the information from the Scottish Executive conflicts with the information that was originally provided for councillors. On that basis, the committee should write back in the strongest terms to say to South Ayrshire Council that we feel that we have been railroaded and that the council has not given the committee its due recognition.

I make the point that within the council both the planning application and the funding for the sale of the land were queried by councillors; a vote was taken and it went ahead. There was a challenge. The council was made aware of the Public Petitions Committee's involvement, so it seems to me to be a bit off that it has gone ahead with its decision.

**The Convener:** I am reminded that we made it clear when we received the petition that it is not our job to question decisions that are arrived at by the local elected authority. We certainly did not ask the council not to go ahead with the process. It would therefore be wrong for the committee to write back now to complain that the council has done so, because we did not ask it not to. We have on previous occasions asked health boards or whoever to suspend any action on their proposals until we have had the chance to consult, but we did not ask South Ayrshire Council to do that. It would be wrong to write back to it now on that basis.

**Phil Gallie:** I am not sure that I agree with that. South Ayrshire Council was made aware that the committee found it surprising that the care regulations were leading to such a conclusion's being drawn by the council. I used the word courtesy—I did not say that the council had breached any agreements or ignored any comment. It seems to me that as a matter of courtesy to the Parliament and to the committee the council should perhaps have held off until the Scottish Executive had responded; it might have given the council for backing for its actions. The Scottish Executive has not responded.

**The Convener:** It is perfectly reasonable for us to write to South Ayrshire Council to draw Phil Gallie's remarks to its attention and to say that although we did not ask it not to proceed, perhaps as a matter of courtesy—as Phil Gallie suggested—it might not have done so.

**Helen Eadie:** If you write to the council, I want to make clear that I do not agree with Phil Gallie's comments. The Parliament, the Public Petitions Committee and any legislative changes that the Parliament makes would have no impact on the decision on St Meddan's Court in Troon. The council has taken its decision. We have always said as a committee that we have no locus in changing decisions that are made at local level. We have always made it clear that we would have

a serious concern if there were a lack of consultation, but that has not been suggested in the petition.

I have had experience with the care commission. We must remember what its remit is. We have a high regard for the care commission in that we want it to succeed and we want to ensure that it delivers quality provision throughout Scotland for our elderly people. One thing that I have found in my work in my area—we have seen it on television and in the newspapers—is that there are terrible examples of the ways in which old people have been treated in some homes. We have also seen examples of the staff being treated abysmally and trade union rights being thrown out of the window.

We must bear it in mind that the care commission has a job to do and that we need to support it in that job. However, we ought not to ask local authorities—whether in Troon, Fife or Strathclyde—to reverse their decisions. If, as a consequence of the impact of changes, we decide that we do not like what is happening, we can go back and change the legislation. Nothing is written on tablets of stone. However, the committee has always said that it will not tell councils to change their decisions.

**The Convener:** We have always been absolutely clear that the committee has no power to ask another elected body to reverse a decision that it has taken. It is for the elected authority to take its decisions. Phil Gallie wants his remarks drawn to South Ayrshire Council's attention. It is reasonable to draw its attention to his remarks and to yours.

**Helen Eadie:** Not as the committee's remarks.

**The Convener:** No, not as the committee's remarks. I am not taking that kind of decision.

**Phil Gallie:** If other committee members feel as I do about the way that the committee is being ignored, I must make the point that, never at any time did the committee ask the council to reverse its decision. The committee questioned the information that was passed to councillors at the time that the council reached that decision. We also asked for clarification from the Scottish Executive.

We have received something less than clarification. It seems to me that it is quite reasonable for the council to make its own decisions without our challenging them, but it should have cleared with its councillors the reasons for and the legitimacy of the actions that it was taking. On that basis, I appeal to other committee members to add to my feelings on the matter.

**The Convener:** The *Official Report* of this part of the meeting will be sent to the council. If anyone

wants to add their views at this point, they can do so, but the committee cannot decide to reprimand or call into question the action of a council as an elected body. Our job is to consider the bigger picture. The substance of the recommendation from the clerks is that we link the petition to the other petitions on the same matter and thereby continue our consideration of the petition. We will decide what we should do in response to all the petitions on the matter, not just PE551.

**Phil Gallie:** I accept that we should continue, but I am surprised that no other committee member feels that the job that we were doing on the petition was worth pursuing to the end. I register my disappointment that no other committee member—

**Dorothy-Grace Elder:** I back Phil Gallie on that. We have heard many other examples of old persons homes closing down. Another one was mentioned earlier this morning.

**The Convener:** We will send an *Official Report* to show that members have indicated their support or lack of it.

**Mr Ingram:** Would a point of information be in order?

**The Convener:** It will be if it is helpful.

**Mr Ingram:** Helen Eadie mentioned that there may or may not have been a problem with consultation. I emphasise that there was a problem with lack of consultation. Essentially, the council informed the home's residents that the home had to close. The reason that was given was that the council could not afford to bring the home up to the new national standards that are required under the Regulation of Care (Scotland) Act 2001. There was no consultation of residents.

**Helen Eadie:** That was why the committee agreed to proceed with the petition. I accept John McAllion's point about the big picture—that is about consultation, but it is also about ensuring that we have quality provision. There is no point in lots of homes being opened throughout the country if their quality and standards do not match those that the Parliament has set down.

**Mr Ingram:** As it happens, in this case, the care commission has—

**The Convener:** We know. We will have to write to the petitioners to tell them the latest position. We will draw to their attention the fact that they have access to the Scottish public services ombudsman if they believe that the council has acted improperly in the way that Adam Ingram has described. However, it is for the petitioners to access the ombudsman. Is that agreed?

**Members indicated agreement.**

## Fishing Industry (PE582)

**The Convener:** The only other current petition with which we are dealing is PE582, which concerns fisheries. The committee will remember that we had to deal with the petition as an emergency because the debate at the European fisheries council took place almost immediately after we received the petition. We therefore sent it directly to the Minister for Environment and Rural Development and asked him to keep us updated on the outcome of the negotiations.

The minister has done that—he has replied to us—and he made a statement to Parliament on 8 January in which the whole Parliament considered the outcome of the negotiations. We have also received a large number of letters from various MEPs acknowledging that we had written to them.

The petition was formally referred to the Minister for Environment and Rural Development to be taken into account in European negotiations. Those have taken place and the minister has responded to the committee as requested. However, as a matter of priority the Executive and the petitioners are, via approaches to the UK Government, dealing with consequential issues that are of concern to the petitioners.

It is therefore suggested that the committee write back to the minister urging him to do all that he can to provide support to the industry and associated communities at this difficult time. It is further suggested that the committee agree to take no further action in relation to the petition.

I have also received information—it is just scribbled on my papers and I forgot to mention it—that the Rural Development Committee has decided to undertake a brief inquiry into the crisis in the fishing industry. It is suggested that the petition and all associated correspondence be referred to that committee to form part of its considerations for that inquiry.

Is that agreed?

**Members indicated agreement.**

## Inadmissible Petition

### Mr Kenny Richey (IP38)

13:30

**The Convener:** Before we finish, we have to deal with one inadmissible petition. The petition is from Fabio Pennini, calling for the Scottish Parliament to take the necessary steps to secure a new and fair trial for Mr Kenny Richey, who is currently on death row in the state of Ohio, following his conviction for murder in 1987.

Obviously, that is a matter on which action would have to be taken by the United Kingdom Government, because foreign policy is reserved. On that basis, it is recommended that, unfortunately, we agree that the petition is inadmissible because the Scottish Parliament has no remit in the area. Is that agreed?

**Members indicated agreement.**

**Dorothy-Grace Elder:** Wait a minute. Where does the petitioner write from?

**The Convener:** From Italy.

**Dorothy-Grace Elder:** I was just wondering who his MP was. I did not catch that he was in Italy.

## Convener's Report

**The Convener:** The final agenda item is to inform the committee that Robin Cook is bringing the Select Committee on Modernisation of the House of Commons on a visit to the Scottish Parliament on 4 March. He has requested an official meeting with the Public Petitions Committee to discuss petitions. Committee members will be kept fully informed of when that meeting is likely to be.

*Meeting closed at 13:32.*





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

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

The deadline for corrections to this edition is:

**Friday 7 February 2003**

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

#### PRICES AND SUBSCRIPTION RATES

##### DAILY EDITIONS

*Single copies: £5*

*Meetings of the Parliament annual subscriptions: £350.00*

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

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

*Single copies: £3.75*

*Special issue price: £5*

*Annual subscriptions: £150.00*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Document Supply Centre.

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

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

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

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

**Telephone orders and inquiries**  
**0870 606 5566**

**Fax orders**  
**0870 606 5588**

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

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers