

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 25 February 2003  
(*Morning*)

Session 1

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## PUBLIC PETITIONS COMMITTEE

### 4<sup>th</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:

Bill Alexander

David Cleghorn (Dedridge Community Council)

Christine Grahame (South of Scotland) (SNP)

Duncan Hamilton (Highlands and Islands) (SNP)

Councillor Danny Logue (West Lothian Council)

Jamie McGrigor (Highlands and Islands) (Con)

Karen MacLean

Maureen Macmillan (Highlands and Islands) (Lab)  
Jessie MacNeil  
Councillor Donald Manford  
Douglas Marr  
Mr Alasdair Morrison (Western Isles) (Lab)  
Mary Scanlon (Highlands and Islands) (Con)  
Rosalie Walton (Dedridge Community Council)

**CLERK TO THE COMMITTEE**

Steve Farrell

**ASSISTANT CLERK**

Joanne Clinton

**LOCATION**

Committee Room 1

## Scottish Parliament

### Public Petitions Committee

*Tuesday 25 February 2003*

*(Morning)*

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

**The Convener (Mr John McAllion):** I welcome everyone to the fourth meeting this year of the Public Petitions Committee. I have received apologies from Winnie Ewing, who cannot be here, but I welcome Irene McGugan, who is here as her substitute. I also welcome Christine Grahame, Mary Scanlon, Jamie McGrigor and Duncan Hamilton, who are here to speak on various petitions before us this morning. I ask everyone to turn off telephones and buzzers.

## New Petitions

### Frail Elderly People (Local Services) (PE597)

### Residential and Nursing Care Places (PE599)

**The Convener:** The first new petition is PE597, from Mr Paul McLennan, calling on the Scottish Parliament to urge the Executive to provide adequate funding to Scottish hospitals such as Belhaven, to prevent bed reductions and the loss of geriatric services. We are considering it jointly with PE599, from John McKenzie Elder, on behalf of the Cockenzie House Action Group—that petition is down here as having one signature, but in fact it now has 1,800 signatures attached to it. Petition PE599 calls on the Parliament to ask the Executive to provide adequate funding to prevent the closure of residential and nursing care services in Scotland. Both Christine Grahame and Mary Scanlon have indicated that they want to speak in support of the petitions. The petitioners are not here this morning.

**Christine Grahame (South of Scotland) (SNP):** I will address the petitions separately and I thank the convener for moving them up the agenda.

Belhaven hospital in East Lothian provides another example of the fact that care provision for the elderly is under threat in Scotland. I remember campaigning with Phil Gallie for the Carrick Street halls, which represented a lost battle in Ayr for the elderly. We have a crisis in the care of the elderly.

Belhaven hospital is a local hospital just outside Dunbar. It has three wards—two geriatric and one for respite—one of which is under threat. A huge campaign has been undertaken by the local community council, the Belhaven hospital league of friends and the entire local community.

The reason for closing the respite ward is underuse of the facility. It is said that the hospital is 40 per cent underused. That is extraordinary when we know the difficulties in providing respite throughout the Lothians, where 500-odd patients are bedblocking. No consideration has been given to the fact that some Edinburgh patients could be put in Belhaven hospital—transport from Edinburgh to Dunbar is not difficult. Instead, the threat of closure has been made.

When the committee considers the matter and sees how it interlocks with PE599, I hope that it will take the view that the Executive must deal with the crisis in care of the elderly in the community, whether in a local hospital or a nursing home. Extraordinarily, a hospital ward has been threatened with closure. Petition PE599 deals with

a nursing home that is threatened with closure. There will be no place for elderly people to go in East Lothian. I ask the committee to consider the petitions against the background of all the continuing care that is required for the elderly.

The committee might consider writing to Lothian Primary Care NHS Trust. The committee now has a copy of a letter of 24 January from the trust—that letter represents the most up-to-date position, to the best of my knowledge. I refer members to the third paragraph of the letter, which says:

"I am now able to report to you that we are currently engaged in the process of applying to the Care Commission for formal registration of Ward One as a nursing home. This will enable us to provide care home facilities for those patients who are currently subject to delayed discharge in acute hospital beds in East Lothian and Edinburgh. Whilst it will take ... three months for our application to be processed, we have nevertheless decided to reopen Ward One as of Monday, 27th January ... and run it on the basis of a nursing home from this date."

That is the most recent information to hand—the committee might want to find out more—but it describes the position for only three months, after which everything will be precarious and elderly people will be in a vulnerable position.

Petition PE599 is on Cockenzie House nursing home. I am sure that the committee will wish to commend the petitioners on the thorough manner in which they have presented the petition. I will refer to some of the accompanying letters, because we are talking about individual people—the 53 residents. They are real people with real pasts, real presents and real futures, but they are being treated like bits of furniture in a fight about funding that should not have happened.

East Lothian Council pays itself £449 per week per resident for a residential nursing home and pays the private sector £388 per week per resident per nursing home. People here do not need to be told that nursing homes require more intensive staffing and a higher professional level of nursing than do residential nursing homes, yet a funding gap of almost £70 per week per resident exists between what the local authority pays itself and what it pays a private nursing home. Why? It is cheaper to run a residential home.

The Joseph Rowntree Foundation says that £465 is the proper figure that should be paid per week per resident per nursing home, but on offer to the private care sector is £406. That is where the problem lies, not only in Cockenzie, but throughout Scotland. The irony is that, if Cockenzie House closes and those 53 lovely people must be put in hospital beds, that will cost the state about £800 per week per resident. Even in hard economic terms, let alone humanitarian terms, the calculation is ridiculous.

In July 2002, Jack McConnell said:

"For most of us, our parents worked all their lives to give us a decent standard of living and a decent home and I think we've ... got a duty as they go into their old age to look after them too ... Being in care is a traumatic time for the whole family and I want to make sure that we make that as easy as possible".

Those are fine words, but they are not followed up by fine actions. For the reasons that I have given and because of the costings that I described, the situation is impossible. The battle is not about being for the private sector or the public sector. That does not matter. What matters is elderly people who require to be looked after in their homes.

I will briefly quote one or two letters. Someone who has a family member in Cockenzie House writes:

"This is a desperate cry for help for someone to tell us what is going to happen to my 90 yr. old father + other residents of Cockenzie House ... They are not pieces of furniture that can be moved or disposed of to rectify your problem of 'bed blocking'."

I apologise to other people who have sent personal letters, because I cannot take up the committee's time by going through them all, but they are extraordinary because they remind us that people are involved. Another letter says:

"When my father died in January 2001 it was with the assurance and confidence that his wife, my mother's, remaining years would be secure in Cockenzie House, an environment close to loved ones and friends in the community where she was born and brought up."

10:15

The letter continues:

"The electorate put unquestioned faith and store that our elected representatives in Parliament that the interests of our senior citizens are being taken care of. This is now sorely and severely being questioned."

There are many such letters telling stories of people who are back in their local community. I have here a letter from an upset and worried daughter who says that her mother

"was cared for at home by my sister for 8 years until it became too much and affected my sister's health. After a lot of upset and fighting with Social Services, we eventually got her into this nursing home, which she now calls her home."

Another letter reads:

"My mother has lived all her days in Cockenzie and Port Seton, attending Cockenzie School and Preston Lodge."

The letter tells of her life, the man she married and her community. It continues:

"When it was decided through assessment, that my mother would have to go into care, we visited many Nursing Homes in East Lothian and, without any hesitation, came to the decision that Cockenzie was most suitable."

The trauma that people go through when they put their elderly parents into nursing homes is bad

enough without penny pinching by the Administration making them wonder whether their parents are secure in a place in which they are happy, loved and cared for.

I am sorry that I have taken up your time, convener, but I am extremely angry that people have had to stand outside this building in the cold and damp and have had to campaign and sign petitions about something that the Parliament should be ashamed of.

**The Convener:** You are not taking up my time; you are taking up the time of other petitioners.

**Mary Scanlon (Highlands and Islands) (Con):**

Four years ago, I sat around this table with Dorothy-Grace Elder, Duncan Hamilton and other members of the Health and Community Care Committee and drew up the top 10 priorities for health in Scotland. Far ahead of everything else, our agenda was led by care in the community. Since then, the Health and Community Care Committee has dealt with the Community Care and Health (Scotland) Act 2002 and the Regulation of Care (Scotland) Act 2001, which set up the Scottish Social Services Council, and we have just finished stage 2 of the Mental Health (Scotland) Bill.

We also made a commitment to monitor the implementation of care in the community. Given that the new policy was started only on 1 July last year, it would have been petulant to start jumping up and down at the time, because anything so new was obviously going to have teething problems. Now, nine months after implementation, I am seriously worried about what is happening. I spoke to a lady in the demonstration outside who said that her mother had been moved six months ago from another home. I know the trauma that is caused to old people who are moved.

The Scottish Parliament has introduced new regulations with which we all agree—apart from the one that resulted in water rates bills of £8,000. Amendments to policy—such as ensuring that there is a nurse in every home, better training and higher standards—will help people at the end of their lives to live with dignity and respect. We look for the same standards across Scotland.

As a member of the Scottish Parliament who represents the Highlands and Islands, I could not even find Cockenzie in East Lothian. Although the petition mentions Cockenzie House in particular, the same problems apply to every care home in Scotland, except council care homes. The councils pay £150 more per person per week. Council care homes have no worries about meeting regulations, employing nurses or providing en suite bathrooms. That is why the situation is unfair. The private and independent sector is being starved of funds.

The situation is bad enough for the elderly people. I will not repeat what Christine Grahame

has said. In the past year, 15,800 people in Scotland turned up for surgery at hospitals only to be turned away because of a lack of beds. There were no beds because more than 3,000 beds were blocked. About 3,000 beds are still blocked, in spite of the injection of millions of pounds. In the Highlands, the number of blocked beds is increasing. The blocking is not the fault of the people in those beds. The beds are being blocked because councils are refusing to fund care. Residential care homes are closing every week.

Every time I speak about the issue in the Parliament, members say that those who run care homes are in it for profit. Even the Church of Scotland, which is taking money from its social fund and its collections, cannot break even—it had to close homes last year. Similarly, the Salvation Army, which does not run care homes for profit, cannot break even. The people who run care homes are simply trying to break even. I have looked at the bank balance of a care-home owner in Fort William. She is getting a loan up to the cost of the care home. When her overdraft reaches the price of the home, she will be closed down. That is the situation that many care-home owners in Scotland face.

The figure given on the yellow placard that protesters outside the Parliament were holding—£465—is not unreasonable. It is certainly very reasonable in comparison with what councils pay their homes. The figure is supported by *Which?* magazine and the Joseph Rowntree Foundation.

Although I am speaking in support of a petition on Cockenzie House, the points that I make are general. Every member of the Health and Community Care Committee expressed their commitment to consistent standards of care throughout Scotland. There is a two-tier system in which councils, which are given far more money than everyone else, turn round and criticise others for profit making, not having enough staff and paying their staff less. If every home were paid the same per patient to achieve the same quality standards, private care-home owners could pay their staff more, provide more training and meet all the obligations that the Parliament has set. I ask the committee to consider the petition not just in relation to Cockenzie House, but in relation to every care home in the independent sector in Scotland.

**The Convener:** Although the petition comes from Cockenzie House, it is general—it does not relate to Cockenzie House alone. The committee cannot get involved in individual decisions; it must deal with matters of general policy. We are in the unusual position of having no petitioners to ask questions of. Do members want to make any points, before I outline the suggested action?

**Phil Gallie (South of Scotland) (Con):** I want to comment on the general problems that Mary Scanlon has identified. To be fair, I must admit that the problem did not begin in 1997. It was around when the Tory Government was in power. At that time, it was thought that the private care sector was particularly hard done by. Since then, numerous care homes have closed and the problem has got worse, in spite of the establishment of the Scottish Parliament.

Although the Executive has ultimate responsibility for funding, as parliamentarians we all have some responsibility for the present situation. We all took part in passing the Regulation of Care (Scotland) Act 2001 and agreeing to free care for elderly people. During that process, we all stated our good intentions. However, good intentions are one thing; practicality is another.

South of the border, legislation on the regulation of care homes has had to be abandoned. If we write to the Scottish Executive about the petitions, we must reconsider the whole issue. In addition to the revenue costs of providing staff and facilities for elderly people, the added capital costs for care homes will break the camel's back. I am sympathetic to PE597 and PE599. Once again, the problem goes far deeper than the individual cases that the petitions raise. It is a serious problem that the Executive and all parliamentarians must face up to.

**The Convener:** Before I call Dorothy-Grace Elder to speak, I apologise for giving the impression that the petitioners are not here. They are at the back of the room, but I did not realise that. However, we decided that, because there have been so many other petitions on the same theme and because of the pressure for other petitioners to speak at this meeting, we would not hear from the petitioners. They are here and the fact that they are not answering questions is our fault, not theirs.

**Dorothy-Grace Elder (Glasgow) (Ind):** We are all mindful of the fact that these are the fourth and fifth petitions that we have received on the same theme in a couple of months. The petitions that we are considering now are well organised and have had a massive amount of work put into them. They draw attention to a national issue, which I think is a human rights issue—we should explore the European dimension in relation to that. As Christine Grahame stated, helpless people are being moved around like bits of furniture, displaced persons or refugees in their own country, yet their generation is the one to which we owe the most. Nobody will owe a vast amount to our generation, perhaps, but we owe these people—who came through the second world war and the grim days afterwards—a debt that has never been paid. They are a cheated generation.

Like Mary Scanlon and Christine Grahame, I am shocked. I remember the early, heady days of the Health and Community Care Committee—Mary Scanlon and I are two of only three surviving original members of that committee—when, with the best intentions, we shoved community care right to the top of the agenda. However, we are being let down all the time. From the letter about Belhaven hospital, it is clear that movement this late in the day—the letter is dated 24 January—has come only through intense pressure from local people. I congratulate the petitioners on the splendid submissions that we have received, which have involved a huge amount of work. Having written submissions myself, I know just how much work and care that takes.

Councils are not entirely villainous; they are suffering from severe cuts, but that is another matter. I thank the petitioners very much for bringing the issue so forcefully to our attention.

**Phil Gallie:** The Belhaven argument identifies another funding problem, where the health service is doing the job of the local authority with respect to housing need. It is a matter of bedblocking, overall budgeting and who has final responsibility. The health service seems to be funding a considerable proportion of housing provision in Scotland. That is not good for the health service, for individuals or for the local authorities. We should ask the Executive to address that.

**The Convener:** Okay. Let us turn to the suggested action on the two petitions. We received three petitions on almost exactly the same issue previously. There seems to be a lack of funding for such care, which is developing into a genuinely national problem. The first recommendation is, therefore, that we should agree to link the two petitions with the three petitions that are already with the committee, which have been referred to the Executive for responses. We are still awaiting two responses from the Executive, so it is suggested that we defer consideration of the two petitions until we have received the Executive's responses to the other petitions.

We could also ask the Executive for more details on the information that was announced last week—subsequent to our considering the three earlier petitions—about the funding package that is being made available. We understand that the Church of Scotland and the Salvation Army have accepted the new funding package, but that other Scottish care homes have not. Should we ask the Church of Scotland and the Salvation Army for comments on the issue?

**Christine Grahame:** I have here a news release from the Church of Scotland—I think that a bit of spin has been put on what it has to say. The director of social work for the Church of Scotland said:



"While we believe that the cost of residential care is significantly greater than £346 a week, we have reluctantly agreed to accept this baseline figure from the Scottish Executive and CoSLA.

As this figure doesn't meet the true cost of care, we hope to keep discussions open with funders as we further demonstrate our commitment to the provision of the highest quality of service to older people in our communities."

In other words, the Church of Scotland has accepted the figure on much the same basis that Mary Scanlon has highlighted and is funding provision through other sources.

**The Convener:** It is important that we get the Church of Scotland to comment on the petitions and the new funding package. We should also ask the Salvation Army for its views.

10:30

**Mary Scanlon:** I did not mention this point when I had the opportunity to speak. In October 2001, after what is known as the Aberdeen stand-off—when care homes in Aberdeen refused to take any new patients because of a lack of funding—a national review group was set up under an independent chairman, Owen Clarke, in order to consider the real cost of care. When the committee seeks a response from the Scottish Executive, I wonder whether it would ask for an update on how often the group—which includes the Scottish Executive, the Convention of Scottish Local Authorities and Scottish Care—has met and what items it has discussed. After all, if the group had done its job properly and had examined the true cost of care under Scottish Parliament legislation, we would probably not be discussing the matter today.

**The Convener:** Will you provide the clerks with the exact name of the review group?

**Mary Scanlon:** Yes.

**Irene McGugan (North-East Scotland) (SNP):** I whole-heartedly endorse the suggestion that, in view of the recent announcement, we raise the issue of funding with the Scottish Executive. As I understand it, the issues that the committee has raised with the Executive on the previous petitions have centred more on the adequacy—or shortfall—and effectiveness of provision. However, from what we have heard today, funding is the crux of the matter and it is important that the Executive gives us an indication of whether it is prepared to revisit the issue.

**The Convener:** I seek the committee's agreement to link PE597 and PE599 to the earlier petitions and I suggest that we defer consideration of the matter until we receive responses from the Executive. In the meantime, we should write to the Scottish Executive, asking it to comment in more detail on the new funding package that has been

made available and to tell us how many times the national review group that was set up in 2001 has met and what subjects it has discussed. In addition, we should write to the Church of Scotland and the Salvation Army to ask for their views on the new funding package.

We will consider the petitions further once we have received those responses. Even though we have not received the responses, it is suggested that, as time is running short, we should refer the petitions for information to the Health and Community Care Committee and ask whether it thinks that its successor committee would be interested in taking up the issue after the election.

**Phil Gallie:** On the television and radio the other day, I heard Scottish Care answering Executive criticisms about the attitude of care homes to the additional costs. Would it be worth while asking for Scottish Care's comments?

**The Convener:** Yes. We will ask for comments from the Church of Scotland, the Salvation Army and Scottish Care. Are members agreed?

**Members indicated agreement.**

**The Convener:** I thank the petitioners for attending. I should also say that we do not often get petitions that are as well presented as those that we received from the Cockenzie House Action Group.

### **Barra Air Service (PE598)**

**The Convener:** The next petition is PE598 from Ms Karen MacLean, on the subject of the Barra air service. The petitioners are calling on the Parliament to urge the Executive to tender for the Barra air service contract for three years and to continue permanently with the public service obligation for the Barra to Glasgow lifeline service.

Three petitioners—Jessie MacNeil, Karen MacLean and Councillor Donald Manford—will speak to the petition. Maureen Macmillan and Duncan Hamilton are also present to speak in support of the petition. Jamie McGrigor was here, but he seems to have left the room for the moment. I am not sure which of the petitioners is the main speaker.

**Jessie MacNeil:** I am.

**The Convener:** Okay. You will have three minutes to speak to the petition, after which we will open up the meeting for members to ask questions.

**Jessie MacNeil:** We thank the committee for giving us an opportunity to use the democratic structure of the Scottish Parliament to present our case for the retention of the Barra lifeline air service to the mainland. Our petition responds to Lewis Macdonald's decision to issue the public

service obligation tender for the Barra to Glasgow air service for one year only, whereas PSO tenders for Tiree and Campbeltown were issued for the standard three years. By doing so, he has put at risk not only the Barra to Glasgow air service, but the Barra to Benbecula air service and Barra airport. His action raises questions about the Scottish Executive's commitment to all air services that are covered by PSOs. Mr Macdonald has acted without consulting the island's local authority, the health board or—most important—the Barra community.

Barra is a vibrant and vital island that makes a significant contribution to the Scottish economy. Annually, we export more than £1 million-worth of fish and shellfish to Europe. Currently, we provide the merchant navy and the oil industry with more than 100 skilled seamen. We export skills and young people. Through the traditions of crofting and fishing, we play an important role in protecting the ecology of a fragile area.

Mr Macdonald's actions threaten the viability of the island. The loss of onshore and off-island jobs, the impact on health care, education, economic development and tourism and the increasing sense of isolation that would follow any withdrawal of the lifeline service would have a catastrophic effect on the island economy. Depopulation would surely follow.

The minister has stated that the car ferry across the Sound of Barra will give Barra access to the air service out of Benbecula. Regardless of health and weather conditions, the people of Barra would have to travel 40 miles north by ferry and single-track road to turn around and travel south-east to Glasgow. At best, that route would require three or more hours for travelling from Barra to Glasgow, although it is more likely that it would require five to eight hours and often an en route overnight stay in bad weather. It is like making people in Edinburgh drive to Dundee in order to go to Glasgow, but it is more serious in its implications for individual travellers.

It is ludicrous to think that such a route can substitute for a direct one-hour air service from Barra to Glasgow. Moreover, in the planning for the Eriskay causeway and the Sound of Barra ferry, no hint was ever made that such an inter-island service would replace the direct air service from Barra to Glasgow—it was never thought of as a substitute for mainland air services.

We recognise that public subsidies must provide full value for money. The benefits of air services to Barra, the Western Isles and the rest of Scotland must exceed the cost of subsidies for those services. We know that proper studies will establish that they do and will continue to do so for the foreseeable future. The Executive has made

no such studies in reaching its decision. It is time that it did so.

It is also time that the Executive started to follow statutory and other governmental policies of consulting the people who will be affected. The drastic action of shortening the PSO tender to one year was taken with no consultation—that is simply unacceptable for an Executive that is committed to open government.

We need to be told about the consultation. What will it be about? Why, where and when will it take place? Who will consult? We urge the Parliament to bend every effort to cause the Executive to remove the immediate threat to the Barra air service by extending the Glasgow to Barra PSO to three years and to carry out promptly each element of the remedy that is outlined in our statement. If the Executive does so conscientiously, we have every confidence that it will decide without reservation that the lifeline Barra to Glasgow air service must be continued for the indefinite future.

Finally, on a point of procedure, we are concerned by the fact that the Parliament will be dissolved by the end of March—the same point at which Mr Macdonald has committed himself to make an announcement about the extension of the PSO tender. We ask the committee to request that his announcement be made no later than mid-March so that the issue can be examined prior to dissolution. I thank the committee for listening.

**The Convener:** Thank you. We have also received colourful support for the petition from children in Barra, which I will pass round to members. A card from Christine MacLean says:

"Dear Sir

This is just an example but just think about this. What if you came to Barra and slipped on a rock and broke your back? You'd have an air ambulance but if you had taken it away so you could not go, you would die."

There are many other views, which I will pass round.

Alasdair Morrison wanted to be at the meeting and tried to get here, but his flight has been delayed from Barra, I think. However, he asked me to read out a letter from him, in which he says:

"I would greatly appreciate it if you could place on the official record my support of the petitioners from the Isle of Barra, in my constituency. The subject of the petition is a matter I have pursued since my first meeting with airport workers at the beginning of November.

I am grateful to you and your fellow committee members for meeting with my constituents some weeks ago and for scheduling, and allowing them to make personal representations at today's meeting. Since we last met in the black and white corridors, when you took receipt of the petition, there has been considerable movement on this important issue. In response to a question from me on Question Time the First Minister made it clear that we could

expect a statement from the transport minister shortly. I have every confidence that this will be a favourable statement.

Best wishes

Alasdair Morrison".

**Mr Duncan Hamilton (Highlands and Islands) (SNP):** First, I pay tribute to the action group both for their efforts on the island of Barra and for the public meetings that were held in Glasgow. It might interest committee members to know that, on a cold, wet Thursday night, for a meeting that was advertised only on Barra, and in an age of supposed political apathy, we still managed to get 100 people to attend a meeting in a Glasgow pub to register their support for the campaign.

I do not want to repeat the points that were made by the representatives who are here. They have first-hand knowledge about the threats to the health service, tourism livelihoods and business. However, it might interest committee members to know that the petition carries the support of every household on Barra. I wonder how many of the petitions that have come before the Public Petitions Committee in the past four years have had the support of every household in the community that is affected by the issue with which the petition deals.

Perhaps I can draw on my experience of previous petitions to assist in several areas of the petition. First, we have been through every possible parliamentary procedure—written and oral questions to the Executive, motions lodged in Parliament, a members' business debate in January and questions to the First Minister last Thursday—to get the petition's issue on the agenda. We exhausted the possibilities of the parliamentary process before bringing PE598 to the Public Petitions Committee. I hope that that fact will be taken into account.

On a point that Alasdair Morrison made in his letter, it is worth saying that last Thursday, in answer to a question, the First Minister said that a decision would be due in the next few weeks. However, as the members of the action group made clear, the next few weeks will also see the end of the current session of Parliament. I do not think that it would be unduly cynical to suggest that there is a danger of an unpopular decision being taken when there will be no parliamentary scrutiny. One specific thing that we ask of the committee is that it writes to the Executive and makes it clear that a decision must either be made now, to allow elected representatives to call the Executive to account for its decision, or be postponed until after the election, so that the new representatives can scrutinise the decision. The absence of such scrutiny would be unacceptable in the current climate.

In the past, the committee has been loth to get involved in specific campaigns and cases. However, the point is that there could be a region-wide review of the principle of PSOs and of public subsidies for direct air links. The tenders for the routes to Campbeltown and Tiree are for three years; only the Barra tender has been reduced to one year. We do not know the parameters of the Executive's review. For example, we do not know whether the definition of a PSO will be reviewed. The petition is about a generic problem that can be tackled on the basis of the issue, even if the committee is not minded to consider the petition's specific issues—which, of course, I urge the committee to do.

I emphasise the seriousness of the position to which the petition refers. The community is worried not just about a single aspect, but about its future, which it is determined to secure. The direct air link is critically important for the Isle of Barra. The Barra community needs to hear from the Executive, either soon or after the election, that there will be a guaranteed long-term commitment to the island and not just a two-year commitment that will leave us staggering on to the next crisis.

The recent suggestions in the press—which were made only there—that were dismissed by the First Minister on Thursday were that the review period would be extended for two years. That does not mean that there would be a three-year commitment or an indefinite commitment; it just means that the period for reviewing whether there should be a service would be extended by two years. We should view that as a stay of execution rather than as a long-term commitment by the Executive to the future of the crucial Barra air service.

10:45

**Maureen Macmillan (Highlands and Islands) (Lab):** I associate myself with everything that Jessie MacNeil has said about the process—the lack of consultation before the announcement was made, and the realisation by the community and by everyone round this table that the ferry service, though new and improved, will not be enough. The ferry will not provide proper transport links to Barra in these days of fast access between home and work. People who work offshore or at sea need fast access for personal and medical emergencies.

Duncan Hamilton has gone through a lot of background detail, and I do not want to repeat everything that Jessie MacNeil said, but I want to make a point about recent developments. Just last week, the Highlands and Islands strategic transport partnership announced that it was trying to take forward a project in which all air services in

the Highlands and Islands would be bundled, and a PSO applied for, to make air access to remote areas easier and to bring down costs. It would be a disgrace if Barra were to be left out of that, because it is one of the most remote parts of the Highlands and Islands. We must ensure that there is an air service in Barra for the next few years, while the HITRANS project is being developed. The project is very interesting and could make a tremendous difference to travel in the region.

The people of Barra need to do one other thing themselves: to commit to a new airstrip. In the past, that has been a bone of contention on the island. Either they kept on using the beach, or they would have to build a new airstrip. At last week's HITRANS meeting, it was felt that the bundling project could take place only if there were a new airstrip at Barra, as well as extended airstrips elsewhere in the region. I ask the people of Barra to commit to that. I want to put my whole-hearted support behind the petitioners, and I hope for a good outcome from the committee.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** I put my full support and that of my colleague Mary Scanlon behind this petition.

Recently, the Rural Development Committee did a report into integrated rural development in the Highlands and found that transport links were a high priority in keeping rural communities vibrant and, indeed, in ensuring their survival. Barra has one of the most solid communities that I have come across in the Hebrides, but it has always been independent as far as transport goes. There is no causeway to link the island to South Uist, as is the case with Eriskay, where the water is too deep. Any suggestion that the passenger ferry boat from Barra to Eriskay, followed by a road journey to Benbecula, is an alternative to an hour-long direct flight from Barra to Glasgow makes no sense to me. Barra has had an air service for some 80 years, and its removal would be a backward step, detrimental to those who live on Barra and to those who want to visit one of the most beautiful islands in Scotland, if not in the UK.

I find it disturbing that there was no public consultation on the reduction of the PSO tender to one year from three. I worry that that might have implications for other Highlands and Islands air services, such as those that serve Tiree and Campbeltown. The Barra service is a lifeline that is used by many; it is particularly important for health care and education, and it is a key pillar of the structure of the Barra community. It would be ironic if Scottish government and devolution led to the isolation of Barra.

**Rhoda Grant (Highlands and Islands) (Lab):** I also support the petition. Barra is within my constituency, and I am glad to see the people putting forward their petition so well.

I want to draw out the importance of the service. For instance, Jessie MacNeil spoke about people having to go to Benbecula if they needed to go to hospital. The people who go to Glasgow to hospital are usually seriously ill. Could you explain the trauma that it would cause to those people if they had to take the ferry and then go to Benbecula to get to Glasgow?

**Jessie MacNeil:** There is some health service provision within the Western Isles, as the First Minister said when he answered the question on Thursday. He stated that there was a new hospital in Benbecula; that hospital is a GP-led hospital. There is also a new hospital in Stornoway. We use the Stornoway hospital, but patients have to fly from Barra to Benbecula to Stornoway. A lot of services are not available in Stornoway, and our patients have to go to Glasgow for those services. If patients are seriously ill and need emergency evacuation, that is a case for the air ambulance, but if patients who are fit to fly are travelling backwards and forwards for routine treatment—for example for chemotherapy—they use the direct plane to Glasgow.

Many of those patients are frail and could not stand up to a journey from Castlebay to Ardmhòr, then a ferry crossing that can be extremely rough, a journey on single-track roads to Benbecula, then a wait on Benbecula for a flight out to Glasgow. That journey puts a lot of pressure on people who are already not well, whereas they can cope with a direct flight to Glasgow. If we lose our air service to Glasgow and to Benbecula, a lot more air ambulances will be needed, because patients will not be able to use the service that they can currently use.

**Rhoda Grant:** Are you saying that, in the long run, it could cost an awful lot more to charter air ambulances to take people off the island when they are very ill?

**Jessie MacNeil:** Yes. We would need more air ambulances for routine health appointments rather than for emergency evacuations.

**Rhoda Grant:** Is it also the case that people go to Glasgow when births are complicated? It would be difficult to take mothers with young babies, who might be very ill, on the ferry and over single-track roads.

**Jessie MacNeil:** I will let Karen MacLean answer that question, because she has had experience of maternity cases and the difficulties that are associated when maternity cases are off-island.

**Karen MacLean:** The answer to Rhoda Grant's question is yes. If somebody is in difficulty at the end stage of the pregnancy, it is necessary to get them to Glasgow, where they can be dealt with quickly and effectively. If we visit people in the

morning, we can usually get them on to the scheduled flight and away to Glasgow sharply. If we had no flights, there would be either the added expense of an air ambulance or they would be taken on the Sound of Barra ferry, which takes 50 minutes. The journey would have to be tied in with the timetable, because the timetable does not work to your advantage when you want to get somebody somewhere in a hurry. Even if the journey could be done in time, it would cause great discomfort to have to go on the ferry, and delaying things would put the mother and the unborn child at risk.

Mothers-to-be understand that the island is remote and they are prepared to deal with that. They know that there is a flight out fairly sharply or there is an air ambulance; withdrawing the flight would put everybody's health at quite serious risk.

**Rhoda Grant:** Is the service important for keeping people on the island? People who are starting a family or who are elderly and infirm would become nervous about living on the island without the support of the flight. Would that lead to people moving away to somewhere where services were more accessible to them?

**Karen MacLean:** Yes. That is the case without a doubt. I recently spoke to one of the secondary school teachers, who is not from Barra; we take in most of our teachers. When she came to the island, she stated clearly that the air service was one of the matters that she considered before she took the contract to work in the school. She has a young son and she said that while it is all right for her to put herself at risk if she is living somewhere remote, she would not be prepared to put her son at risk. If there had been no air service, she would not have come and if we lose the service she will leave, as will an awful lot of the teachers on the island. Many of the teachers in the schools are not from the island, so they need to be able to get on and off the island quickly. If there is no air service, not many teachers will come to teach our children.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** Good morning folks and welcome to the great city of Edinburgh. To start, will you tell us when you left home for this visit to Edinburgh and when you are likely to get back?

**Karen MacLean:** We left on Saturday and we will not get back until tomorrow afternoon.

**John Farquhar Munro:** It is a three-day trip.

**Karen MacLean:** Yes. We could have left yesterday, but we would not have arrived in Edinburgh until about 7 o'clock, which was far too late. If the weather conditions had changed, we would not have been here at all.

**John Farquhar Munro:** That is considered normal in Barra and other remote areas, but if I

suggested to somebody in Edinburgh that it would take three days to go to a meeting, they would think that it was impossible to go.

I congratulate the community on its presentation. The petition is excellent: it is well presented, precise, concise and makes the case beautifully. It seems absurd that when the local authority and others are trying to promote and improve transport links—not only inter-island links, but links to the mainland—one of the final links in the chain is being threatened with removal. That does not make a lot of sense.

The letter from the Scottish Executive aviation policy branch, which is signed by a Grace McGuire, suggests that the Executive will take more information and do more research and scrutiny to determine whether there is a case for retaining the air service to Barra. How much more research or information is needed?

**Karen MacLean:** I do not know. That is one of the flaws in the argument.

**Councillor Donald Manford:** We would like to understand precisely the answer to your question. The first announcement that was made advised us that the service was to be reviewed because there was an overlap in services. However, the alternative service offers double the cost and a 500 per cent increase in travel time. In that context, we struggle to understand the definition of overlap. The announcement also mentioned the tenability of the airport. We understood from the use of the word "tenability" that the issue was about the future of the airport itself. We are committed to the development of fixed runways and so on. However the answer that we were given on the issue of tenability was:

"The Executive needs to ensure that the Glasgow-Barra air service and Barra Airport are capable of being retained for the long-term within the constraints of public expenditure".

That is different to our understanding of what was meant by tenable.

I am also concerned about the review. What precisely will be considered in the review? What are the parameters? As we understand it, decisions on public service obligations are based on the lifeline definitions of frequency, cost, capacity, length of passage and so on. It seems that those definitions are to be reviewed and revised in the case of Barra, but is it reasonable or right that we should have a lesser service than other places with lifeline services? Is the basis of the lifeline service being reviewed entirely? If it is, is it reasonable that only one community's service should be reviewed, when many diverse communities depend on lifeline services?

The question that John Farquhar Munro poses is hugely relevant and we need answers to it, which

is part of the reason for our bringing the matter to the Parliament.

11:00

**John Farquhar Munro:** In a remote area such as Barra, which is on the periphery, a direct air link is an essential part of the transport provision. The service should not be considered from the point of view of financial returns, but as a social service to the community.

It has been suggested that the new ferry from Eriskay to Barra would solve the transport difficulties. Two or three weeks ago, when some of the civil servants from here in Edinburgh visited Barra with the local MSP and MP, they succumbed to the vagaries of sea travel on that short crossing. That happened in reasonable conditions, which we do not always have.

I know that an application for a PSO takes for ever; I have been involved in trying to establish a PSO for London to Inverness. That campaign has been going on for five or six years, and a decision has not yet been reached. Any support that you can enlist from the Scottish Executive, and even from Western Isles Council, should carry the utmost weight in trying to establish that PSO for the island.

I have one final question. Because of the new ferry service from Eriskay, have you lost any of the direct Caledonian MacBrayne services to the mainland?

**Jessie MacNeil:** When the Executive raised the question of overlap on the introduction of the new ferry between Barra and Eriskay, we expected it to cause conflict not on our direct ferry services from Oban to Castlebay, but on the triangle between Castlebay and Lochboisdale. To date, we have not lost that Castlebay to Lochboisdale link, but CalMac is looking at that for next year in the consultation that will take place on next summer's timetable, because that is the route that is now surplus to requirements.

With a bigger vehicle-carrying vessel on the Sound of Barra, there is no longer such a requirement for the Castlebay to Lochboisdale link. That is the only part of our mainland ferry service that we see dropping, but that reflects the fact that the Eriskay causeway and the Sound of Barra ferry are improvements to the infrastructure within the Western Isles. From the Butt of Lewis to Barra Head is in excess of 150 miles. We had to improve the infrastructure throughout the Western Isles, because it is a unitary local authority. The council was committed to doing that. We did not expect to get that improvement, then suddenly to be told, "You don't need a flight to Glasgow."

**The Convener:** I welcome Alasdair Morrison to the committee. I will give him a minute to catch his breath.

**Dorothy-Grace Elder:** I admit that I am still baffled by the fact that in the 21<sup>st</sup> century anybody should be at risk of losing their air service just because they have got a better ferry service.

I have one or two questions. From your submissions, it cannot possibly be assumed that the air ambulance service could continue to operate as well as it does just now if the airport runs down as a result of the ordinary passenger service being withdrawn. Your submission says that 84 people used the air ambulance last year and:

"If the airport is closed, the beach will no longer be properly maintained or monitored for safe landings and takeoffs."

Could you expand on that, please?

**Jessie MacNeil:** When the health board was drawing up its brief report, the Scottish air ambulance service stated that it saw the air ambulance service continuing. When we investigated further, the air ambulance service actually said that it will be the responsibility of the contractor who delivers the service. The contractor at present is Loganair. The Civil Aviation Authority may not be quite so involved with a landing for the air ambulance, but the air ambulance service still requires a safe landing area.

If the airport closes—we will certainly fight as hard as we can to ensure that it does not—the beach will still be there, but it is a living entity. Part of the work of the airport firemen is to ensure that the area within the markers—there is a designated air landing strip within the markers—remains safe. Banks of shells move across the beach like waves. Part of the role of the firemen is to ensure that those banks are levelled, because at some points they are big enough to tip a plane if it lands on them. Once the staff are no longer there to ensure that the beach is safe, there will be a question mark over where the air ambulance Islander can land. If the Islander cannot land, helicopter evacuation will be needed. To my knowledge, helicopter evacuation costs £5,000, whereas an air ambulance costs about £2,000. You can see that costs would immediately escalate.

**Dorothy-Grace Elder:** So the air ambulance service would be threatened. I assume from what you are saying that the state of the beach can change within a few hours and needs a team of people there all the time, because one never knows when the air ambulance might be needed.

**Karen MacLean:** When there is an air ambulance call-out, the crew checks the beach and if any debris has been washed in by the tide or there are any problems on the beach, it deals with it before the air ambulance comes in. If nobody is there to do that, the air ambulance is put at risk.

**Dorothy-Grace Elder:** How much were your fares for coming here?

**Jessie MacNeil:** If we come over a weekend, our normal return fare is in the region of £140. If I come out for a meeting on Monday and I want to get back on a Wednesday, the fare is about £190. We were given a special concession and our fares were £99 return.

**Dorothy-Grace Elder:** I got to Brussels from Prestwick for a tenner return recently. You have none of the advantages of the cheap airlines.

My last question is about the PSOs. Have you—or has the consultation group that was considering the issue—investigated the Irish system on PSOs, whereby some of the islands off the west coast of Ireland have free flights under the PSO scheme for certain categories of passenger, such as pensioners, disabled people and the companions of disabled people? Have you investigated how PSOs are affecting other remote areas of Europe, or is that being brought to the Executive's attention? Barra seems to be very disadvantaged in comparison with other areas.

**Jessie MacNeil:** I just wish that we were living in Ireland.

**Councillor Manford:** We have been looking at different countries in Europe, such as Ireland, France, Germany and Greece. We were optimistic that the Scottish Parliament would start leading us down the road of giving us modest improvements, if nothing else, in fare structures for the people whom you are talking about and additional fares. Instead, we have been rocked into having to defend the very existence of the service. That is where we are.

**The Convener:** Alasdair Morrison missed the beginning of the meeting, but he may have a chance now to say something in support of the petition.

**Mr Alasdair Morrison (Western Isles) (Lab):** Thank you, convener, for meeting my constituents to take receipt of the petition a few weeks ago and for scheduling this evidence session for this morning. Needless to say, I am—on behalf of Barra—fully supportive of the efforts of the petitioners. The issue has been under active and robust discussion since the beginning of November. It is unfortunate that I missed the earlier contributions from the other ladies and gentlemen who are present.

It is worth putting it on record that no one has said that the service will be lost. It costs in the region of £1 million to maintain direct air links between Barra and Glasgow, which are absolutely essential. Since we have been discussing the matter with the Executive, I have focused on one area in particular—Dorothy-Grace Elder focused

on it, too—which is the need for an air service for those who travel to and from hospital. I do not refer only to the air ambulance service, because many islanders are taken to hospitals in Glasgow and beyond on scheduled flights.

At the beginning of November when I flew to meet the airport workers—the first meeting on the matter that I had on Barra—there was a young mother with a 10-day-old baby and the baby's grandmother on the same flight. I presume that the baby was born in the Queen Mother's hospital. They flew directly from Glasgow to Barra in 55 to 60 minutes. The alternative air route would be to fly from Glasgow to Benbecula. As I am sure my constituents have outlined, they would have had a bumpy ride down through South Uist, to Eriskay and across what can be a tempestuous stretch of water, the Sound of Barra. That is not, as Dorothy-Grace Elder pointed out, an improvement in the service.

Jessie MacNeil focused on several issues in relation to the improvements in infrastructure. In the past six years, there has rightly been huge investment throughout our islands so that we are changing the dynamics of internal transport within the Western Isles, as well as changing the dynamics of the economy and our socioeconomic perspective. That is right and proper and it is what we should be striving to do. However, no one ever saw the improvements as an alternative to or replacement for the air service. I assume that that point has already been made by Ms MacNeil, Ms MacLean and Councillor Manford.

At the beginning of the year, Lewis Macdonald visited Barra and met the islanders and all the points that have been made this morning were made to him then. He pledged that his officials, Western Isles Council officials and officials from Highlands and Islands Airports Ltd would examine all the available data. Those data included the economic appraisal that was conducted by Western Isles Enterprise and other data from Western Isles NHS Board. As the First Minister said at question time last week, we are expecting a response from the minister responsible for transport shortly. I have no doubt that it will be a favourable response.

The air service is absolutely essential; it is a direct link between Glasgow and Barra that must be retained. I am fully of the opinion that we must extend the current tender in order to have a proper discussion about the sustainability and the long-term viability of the air service. We could, if that were the case, discuss not only the Glasgow to Barra links but the internal air links from Stornoway all the way down to Barra. I certainly support the points that I assume have been made forcibly and cogently here this morning.

No one was ever under the impression that the fares and fare structures that are put in place by

the airlines are matters for the Government or the Scottish Executive. Those are commercial decisions and undertakings that are made by airlines. The Government has said that it costs £1 million per year to keep the Glasgow to Barra service running. That is money well spent because the service is essential to the quality of life of the young, old and middle-aged people.

I do not have any questions to put to the witnesses because I cannot think of any I could put to them. I just want to put on record the fact that I support the petitioners.

**Irene McGugan:** I am glad that Alasdair Morrison is here because I have a question for him. He used two specific words in the letters he wrote to the committee and he repeated them in the submission that he has just made. He said that he anticipates that a decision will be made “shortly” and that it will be “favourable”. On what basis has he made those optimistic predictions and would he like to expand on them? For example, does “shortly” mean that the decision will be made before the end of March when Parliament dissolves? There is concern that a decision made at that time will not allow proper scrutiny. What does “favourable” mean? Does it mean a two-year review or a three-year public service obligation? What does Mr Morrison think is a “favourable” response?

**Mr Morrison:** “Shortly” means shortly or soon and it is the word that Lewis Macdonald used. The undertaking was given clearly by Lewis Macdonald on Barra that he would come back with a response before the end of March. That means between this morning and 31 March.

11:15

A “favourable” outcome, from my point of view and my constituents’ point of view, would be to have an extension of the tender so that we could have a rational discussion. It was originally proposed that the review would take place between April and September—over seven months. We have made the point that we do not believe that that is a sensible period for proper review, because it does not include the overlap and will examine only one part of the year.

We have had one small old ferry doing a reasonable job in a tempestuous stretch of water, which has proved that although people can travel by car to Benbecula airport, it has not impacted on the number of people using the air service between Barra and Glasgow. In fact, in the eight months from March to November, there was a 1.2 per cent increase in traffic between Glasgow and Barra.

It is not the PSO that is under discussion; it can be removed only by the European Commission.

The PSO will not, however, be removed—it is there in perpetuity. It is the tender period that we have to sort out, as far as I am concerned. There are three services under tender: Campbeltown, Tiree and Barra. The PSO exists, but it is the tender period that must be extended—its extension would be a favourable outcome. Rather than the tender period running from April 2003 to 2004, the Barra tender should begin in 2003 and be extended, ideally in sync with the tender periods for Tiree and Campbeltown.

**The Convener:** I have allowed an exchange between Irene McGugan and Alasdair Morrison, but at this point we are meant to be asking questions of the petitioners. Members can exchange views later when we discuss suggested action.

**Phil Gallie:** I come to the matter as an outsider, whereas most of the comments that have been made until now have been fairly informed. The service is a purely public service that is necessary to Barra if people are to be retained on the island and if people on the island are to find employment in the rest of Scotland and beyond. The Scottish Executive is interested in improving infrastructure to improve the economic development of Scotland. Do you regard this public service facility as part of the Barra infrastructure in the same way as I regard the A77 as part of the infrastructure in Ayrshire?

**Jessie MacNeil:** I certainly do. When we were preparing our submission for today’s meeting, we nearly asked whether the Glasgow to Edinburgh rail service would be removed because there is a Glasgow to Edinburgh motorway. A similar thing is being done in Barra. We need fast access to and from the island if we are to get investment in our young people and our community. We are investing a lot in information technology skills and skills that we hope can help remote communities to create employment and bring back to the island some of the highly skilled graduates who currently work on the mainland.

We need to take the plane—I cannot leave my house and drive more than five miles without having to go on either a plane or the ferry. That is the reality of life on Barra. If I want to travel more than half an hour away from my house, I hop on a plane or the ferry. Gone are the days when island people left home once a year for a fortnight. We are coming and going as required to meet business and to meet the island’s needs. That is the key to the issue. The plane is part of our transport infrastructure.

**Phil Gallie:** Alasdair Morrison suggested that there is no intention whatever of getting rid of the public service obligation order. If that is the case, I am slightly puzzled as to why opting for a one-year tender at the present time would be of any benefit,



given that there is a cost in putting tenders together and ensuring that back-up exists to provide the tender for a period. The shorter the period of the tender, the higher is its cost. Have you any idea why the Executive has opted for a one-year tender period?

**Jessie MacNeil:** Until the announcement was made that the tender was being issued only for a year, we had heard nothing. We do not know why that decision had been made and there has, for some time, been a question mark in our minds over the future of the beach as a landing strip.

I would like to respond to a comment that was made by Maureen Macmillan, because there seems to be some confusion. The beach is a high-profile landing area, but there are restrictions on the types of planes that can land on it. Even Lewis Macdonald made a mistake when he talked about the referendum on the hard air strip. That referendum asked two questions: the first was whether we wanted a hard landing strip to replace the beach landing strip for a scheduled passenger service. The votes showed that 365 people did and 235 did not. A few politicians around this table would be happy with a majority of that scale.

**The Convener:** Especially in the next election.

**Jessie MacNeil:** We were in favour of a hard landing strip. We were also asked whether we wanted the hard landing strip to be at or on the Tràigh Mhòr. However, because the final design on the feasibility study that was produced put the landing strip right out across the Tràigh Mhòr, people said no to the question whether they wanted the hard landing strip there. They were concerned about the impact on the beach of a huge, solid rock structure. The Tràigh Mhòr is not only an airport—it has a biomass of about 900 tonnes of cockles, which plays a part in the economy of the island. Furthermore, at the time of the referendum, the cockles had played a part in changing the law of Scotland because, in order to protect the cockles, we supported a ban on mechanical harvesting of cockles throughout Scotland. We were sensitive about the use of the Tràigh Mhòr.

There is room on the machair for a hard landing strip without it coming out onto the beach. That issue has come up on a number of occasions in relation to the viability of the project. However, that was not said in October when Lewis Macdonald said that he was restricting the tender. He said that he was reviewing the viability of the Glasgow to Barra air service.

There is another PSO that is linked to our air service: the inter-island PSO that covers the route between Stornoway, Benbecula and Barra, which is a separate contract. The Western Isles Council was going to issue that contract for three years, as

usual, until it got a letter from the Scottish Executive which said that it could not. The council was told that, because the Scottish Executive was issuing the Glasgow to Barra tender for only one year, the other tender had also to be issued for only one year. The council was not consulted on that decision.

At the public meeting in Barra in January to which Alasdair Morrison referred, Lewis Macdonald stated that not only was the viability of the Glasgow to Barra air service being reviewed, the viability of the Barra to Benbecula air service was being reviewed—even though it was not a Scottish Executive PSO—as was the viability of the beach. That is how we are being drip-fed information.

**The Convener:** I must stop you there because we are pressed for time and other petitioners wish to speak. We have time for a final question from Duncan Hamilton.

**Mr Hamilton:** It has been suggested that the Executive has no intention to remove the service or make changes that would impact on the airport. Is it your view that we cannot possibly know whether that is the case, given that the purpose of the review has been cloaked in secrecy and that the viability of the two routes that you have mentioned and, importantly, the airport have been called into question?

Alasdair Morrison said that the decision will be made “shortly”, but it is possible that it might be made too late. Do you agree that, if that decision is not made in the middle of the month, to enable adequate time for scrutiny before the end of the Parliament, it should be postponed until after the election so that there is a chance for proper democratic scrutiny? Do you agree that it is important that we stress that we do not want merely an extension of the review period but a long-term policy commitment to the future of the service?

**Jessie MacNeil:** We would not be happy if we were told only that the review period will be extended. We have not been told what is to be reviewed or why the review is being carried out. Will the review consider the whole question whether the Barra service is a lifeline service? We will be concerned if the review does not consider that. Our petition is looking for the tender to be extended, but we want a commitment to the Barra service and a recognition that it is a lifeline service. That must be part of the review. We want to know what is being reviewed, how it is being reviewed and by whom it is being reviewed. Other than the public statements, our community has received no communication to explain why. We do not know why the review is being carried out.

We have also had to work our way into and learn quickly about the procedures of the Scottish

Parliament. We would be very concerned if an announcement were made on 31 March and the issue was then closed so that we could not come back to Parliament if we were unhappy. We want an announcement to be made as early as possible so that our elected MSPs can consider the matter and discuss it before coming back to us, and so that we can talk to them before Parliament is dissolved. If that does not happen, we want the petition to continue so that the new Parliament can deal with the matter fully and in depth. We are wary of the whole matter just dropping out of sight.

**The Convener:** I ask Jamie McGrigor to ask his question quickly, because we have many other petitioners waiting to speak to other petitions.

**Mr McGrigor:** I know that Barra has a transport committee. When the objective 1 money was being found for the Eriskay causeway, was it at any time suggested that the causeway might somehow be a substitute for the Barra air service?

**Councillor Manford:** No. Absolutely nothing like that was ever said anywhere. We hear talk about rationalisation and saving money within a particular pot, but if there had been such a suggestion, it was made without the knowledge of the community or the council. It would be obscene if the people were not given the option of understanding the choice that was being made. In fact, there was no choice.

Mr Gallie suggested that the proposal compares to removing the train link between Edinburgh and Glasgow and leaving just the M8. I would go much further than that. In context, the change would be like saying that it is all right to take away the M8 and the railway service between Edinburgh and Glasgow simply because people could go via Dundee.

**The Convener:** I am from Dundee, so be careful.

We now move on to consider the suggested action. We have been told that there will be a strategic review of the future of the air service. We are also told that a decision is pending from the minister on whether a one-year extension to the PSO contract will be sufficient time within which to conduct the review. The petitioners say that the tender should be for three years as normal, and that a commitment should be given to the island's air service as a lifeline service that must be maintained.

The issue is complicated by the fact that we do not know what the minister means by "the end of March". It is suggested that, as time is running out and there is no committee to which we can send the petition for action in the interim, we should refer the petition directly to the Deputy Minister for Enterprise, Transport and Lifelong Learning. We can ask the minister to take the petition into

consideration when he decides whether the contract should be extended for one year or three years.

I am minded to suggest that we should say that the committee is of the view that that decision should be made by the middle of March by the very latest, because that would allow parliamentary scrutiny of the decision. I also suggest that we pass to the minister a copy of the *Official Report* of this morning's meeting and ask him to pay attention to what has been said by all those who have spoken on this important debate.

Do members have any other suggestions?

**Phil Gallie:** The way in which the Executive is conducting the review has been referred to. The Executive talks about having an open and transparent review, but the evidence that we have heard seems to suggest that the review is anything but open and transparent. There seems to be a great question mark over the purpose of the review and over the detail of what it will contain. I suggest that we ask the minister for greater detail on the purpose of the review.

**The Convener:** Sure—we can do that.

**Mr Hamilton:** I have a point of clarification. I welcome the suggestion about the decision being made by mid-March. Does the committee also intend to suggest that, if it will not be possible to have made the decision by then, it should be postponed until the Parliament meets again for the new session so that we do not fall between two stools and so that there will always be a mechanism for scrutiny?

**The Convener:** That is my view. It is up to other members to say what they think. However, I would have thought that the reason why we should ask that the decision be made by mid-March at the latest would be to allow parliamentary scrutiny. If that cannot be done for practical reasons about which we do not know, perhaps we should say to the Executive that the decision should be deferred until the new Parliament—which can subject the decision to parliamentary scrutiny—is in place.

**Rhoda Grant:** We should say that we want to know the outcome before mid-March—people need to know as soon as possible. The decision is hanging over folk and we should not start watering down our recommendation. If we send the message that we want, for those who will be affected, an early announcement from the minister, we would water it down if we said, "If you can't manage, can you leave it a bit later?" The review period starts in April, which would make that difficult, because a review would already be under way when the announcement would be made. We must be clear that the sooner the decision is made, the better.

**Mr Hamilton:** We are arguing the same point, but a different way. However, the problem with Rhoda Grant's suggestion is that, although the First Minister has said that an announcement will be made in the next few weeks, if that announcement is postponed for a reason the committee cannot possibly know, the Executive could argue that it tried to make the decision as near to the middle of March as it could. If the decision ended up being announced at the end of March, all of a sudden democratic scrutiny would be lacking.

I understand Rhoda Grant's point—we should ask the Executive to make the announcement as soon as possible and by the middle of March. Failing that, the worst-case scenario is that the decision will be announced in a black hole in which there is no democratic scrutiny.

**The Convener:** It has been suggested to me that one way round the matter is to stick with saying that the committee's view is that the decision should be announced by mid-March to allow the Parliament to scrutinise it. However, we should also say that, if that will not be possible, the committee will need to know that by 11 March, which is our next meeting. If a practical barrier exists, we can decide on the matter at the 11 March meeting and recommend that the decision be postponed until after the election.

11:30

**Rhoda Grant:** That would make me happier. The pressure is on for an early decision. If we can consider the matter again on 11 March, that is fine.

**The Convener:** Because Phil Gallie has asked for additional information about the transparency of the review that is to be conducted, we cannot refer the petition formally to the Deputy Minister for Enterprise, Transport and Lifelong Learning. The petition remains open and in the committee's possession. We will copy the petition to the deputy minister and ask him for the information that we want. If we refer the petition formally to the minister, we cannot ask for additional information. That is a technical point. It does not really change anything.

**Dorothy-Grace Elder:** Do we know the names of everyone who is involved in the review and of those who have been consulted and who have given evidence? If we do not, could we ask the Executive for that information?

**The Convener:** That is the kind of detail for which we will ask: the nature of the review, who will be involved and what its remit is.

**Dorothy-Grace Elder:** We are so tired of hearing, as we did a fortnight ago, about review

bodies whose members are not named, that have no remit and that disappear behind closed doors.

**The Convener:** That is the point that Phil Gallie was making.

**Rhoda Grant:** Could we also ask for details of the mechanism that the Executive hopes to use to involve the island community so that information is shared? It has been made clear that information has come out in drops rather than clearly. If a mechanism was set up whereby the island community could be involved in the review and know at all times what was going on, that would be helpful.

**The Convener:** We will ask the Executive how it intends to involve the local community in the process.

I thank the petitioners for attending and for their evidence. We hope that we will get a positive outcome for the petition.

**Jessie MacNeil:** Thank you for listening to us and for helping us with the petition.

### **Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (PE601)**

**The Convener:** PE601, from Bill Alexander, is on the subject of solicitors' monopoly on paid court representation. The petition calls on the Parliament to take the necessary steps to commence sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, which would allow interested parties to make a submission for rights of audience in Scottish courts.

The principal petitioner is Mr Bill Alexander, who is here to make a brief presentation.

Do you have a Mrs Costelloe Baker with you, Mr Alexander?

**Bill Alexander:** I am not sure. She is the Scottish legal services ombudsman. I did not know that she intended to speak.

**The Convener:** We had information that she was coming with you. It does not matter if she is not here. You have three minutes to make a presentation.

**Bill Alexander:** My presentation will be shorter than that. I had hoped to give some indication of the size of the legal services market but, unfortunately, I have been unable to find out how much the public and private sectors pay for legal advice and representation.

The annual cost of legal aid for criminal work is approximately £100 million and the annual cost of legal aid for civil work is approximately £20 million. My estimate is that the entire legal services market is worth well in excess of £500 million a year. I

lodged the petition to introduce a measure of sensible competition into that market.

The Solicitors (Scotland) Act 1980 makes it a criminal offence for anyone other than a solicitor to charge money for preparing a writ. That has been interpreted as justification for the courts to restrict rights of audience. It is interesting to note that the same act allows any person to draft a writ, providing that they do not seek payment for doing so. Therefore, those parts of the 1980 act appear to be concerned mainly with profit rather than with standards.

I can see nothing wrong with protecting the title of solicitor in the same way that architects, chartered accountants, chartered surveyors and chartered engineers have the description of their professions protected. However, I do not believe that the monopoly on receiving payment for legal representation in court proceedings is in the public interest. Although architects, accountants, engineers and surveyors all carry out responsible roles on behalf of the public and private sectors, none of them has a monopoly on receiving payment for doing so.

Sensible competition has been introduced in England and has been commended in public by no less a person than the Lord Chief Justice of England. We should be afforded the same rights as the people of England. The Scottish Consumer Council has campaigned for the introduction of competition, as has the Office of Fair Trading.

Commencement of sections 25 to 29 of the 1990 act would not open the floodgates to unregulated representation. All it would do is allow interested parties to make an application in accordance with prescribed guidelines. Such applications would have to be vetted and approved by the justice department before any rights of audience were granted. The public would be protected at every stage of the proceedings.

Sensible regulated competition would be in the public interest and should be encouraged, not restricted.

**The Convener:** I invite members to ask questions.

**Phil Gallie:** In 1990, the politicians of the day obviously thought that sections 25 to 29 of the 1990 act represented a good move. Why do you think that those provisions have not been commenced?

**Bill Alexander:** There is no explanation. I have written to the Minister for Justice and he said simply that the Executive had no intention of commencing those sections. He seemed to indicate that there would be no public interest in their being commenced. My view is that the public are blissfully unaware of solicitors' monopoly. If

they became aware of how restricted practice is, they would be outraged.

**Phil Gallie:** The 1990 act requires the Lord President and those involved at the highest levels of the justice system to prepare a draft scheme of conditions. Is that where the process stopped? Could it be suggested that there is a judicial monopoly that is acting against the wishes of the politicians in relation to the commencement of the sections in question?

**Bill Alexander:** That is an interesting point. The justice department seemed to be of the opinion that all that was necessary for the commencement of those sections was for the Minister for Justice to sign the commencement order. The justice department said that it would have to consult the Lord President. When I asked why that was so, given that the Lord President is not democratically elected and we are talking about legislation that has been passed by Parliament, it simply reiterated that he must be consulted.

On my reading of the act, it does not say what you indicated that it says. It gives guidelines on the standards that have to be met by interested parties when they make their application.

**Phil Gallie:** Okay, I accept your answer. I will need to reread the relevant sections. My interpretation was slightly different.

**Bill Alexander:** The act is quite badly drafted in that, although it seems to encourage competition, it does not state specific timetables. It leaves the issue vague.

**Phil Gallie:** The act has provided a facility, but responsibility for the detail has been passed on to the Lord President. Which groups, other than customers, are most likely to take advantage of such a scheme?

**Bill Alexander:** Different sections of industry and society are involved. In construction law, in which I have a background and a personal interest, I can act for a construction company in arbitration proceedings for £10 million, but I cannot act for that company in court proceedings for an amount in excess of £1,500. The construction companies would like a wider choice of representatives. The honest truth is that I do not know who else would take advantage of such a scheme. If any member of the public is asked about the cost of legal representation, their main complaint is that it is too expensive.

**Dorothy-Grace Elder:** The vast majority of the public who have been involved in trying to take a civil case were highly dissatisfied with the procedures and, especially, with the bill. As a former Lord Chief Justice of England said, the law is open to everyone, but in the same way as the Ritz hotel is open to everyone.

**Bill Alexander:** That is a good point.

**Dorothy-Grace Elder:** Could the legislation that you have cleverly brought to our attention—almost everyone forgot about it, as they were supposed to do—help in cases in which lawyers make a huge charge, such as some divorce cases and conveyancing?

**Bill Alexander:** I do not know much about conveyancing law. Licensed conveyancers were introduced, but they are to be absorbed by the Law Society of Scotland.

**Dorothy-Grace Elder:** That is a surprise.

**Bill Alexander:** That seems to be a grey area, so I do not know what is happening.

I have acted in a pro bono capacity for people who did not qualify for civil legal aid and whom the law did not allow me to charge even £10 an hour. Those people found it beneficial that someone could help. Many people in Scotland who have a background in law could probably take on such a role.

**Dorothy-Grace Elder:** What is your profession?

**Bill Alexander:** My original profession is engineering—I am an engineer. I act as an expert in arbitration proceedings and I realised that I knew nothing about the law, so I studied it. I took a master's degree at the University of Strathclyde and became more and more interested.

A different view is that the law is relatively simple, because it presumes that we all know the law, so I am not sure why specialist bodies need to be protected in charging for dealing with the law. My view is that the law should be open to everyone, but the Executive might think that that is a step too far, so my compromise suggestion is that we should introduce competition.

**Dorothy-Grace Elder:** You said that you took a master's degree. What was that in?

**Bill Alexander:** Law.

**Dorothy-Grace Elder:** That makes it particularly public-spirited of you to raise the matter. We get the gist that your experience is mainly on the industrial side, but you wish to open the gates to people who want to take almost any case.

**Bill Alexander:** My view is that no restrictions should be imposed. People should be free to nominate whomever they like to represent them. If they are happy that their representative is doing a good job, their representative should be paid for doing so.

**Dorothy-Grace Elder:** Often, a lay person knows far more about a case and is more meticulous.

**Bill Alexander:** Article 6 of the European convention on human rights entitles us to a fair and impartial tribunal. If someone cannot obtain

legal aid and has a complicated technical point, but does not have enough money to pay a solicitor, they are denied access to justice.

**The Convener:** Under the law as it stands, are people in Scotland able to represent themselves in court and prepare their own writs, but not allowed to apply for legal aid to meet the costs of doing so?

**Bill Alexander:** Yes. That is my understanding of the situation.

**The Convener:** So only solicitors can apply for legal aid.

**Bill Alexander:** Yes, for court proceedings. However, it is becoming apparent that there is a grey area in respect of employment tribunals as a result of article 6. For example, anyone present today could represent a party at an employment tribunal. Recently, it was decided that parties at employment tribunals were entitled to legal aid, but no one has yet got their brain around the fact that a non-solicitor could apply for legal aid.

11:45

**The Convener:** Over many years, I have sat on various parliamentary committees and tried unsuccessfully to get amendments passed. One of the arguments that ministers and civil servants use repeatedly is that an amendment should not be made to a bill unless it is strictly necessary.

It is obvious that, when sections 25 to 29 were passed in 1990, the committee that sat to hear the evidence and the Government of the day thought that those sections were necessary. Why have they not been commenced 12 or 13 years later?

**Bill Alexander:** Ask the Minister for Justice.

**Phil Gallie:** I could say the same about the Crime and Punishment (Scotland) Bill in 1996.

**Dorothy-Grace Elder:** I think that the issue comes under the lawyers closed shop and greed act 1892.

**Bill Alexander:** I have not studied that act.

**The Convener:** It has been suggested that the problem could have arisen because different Administrations were involved. However, the Administration in 1990 was the same as that from 1992 to 1997. There was then a different Administration, but that does not answer the question that is raised in PE601. Both Tory and Labour Administrations have failed to implement sections 25 to 29.

**Bill Alexander:** I will tell the committee the reason for that, although the laws of defamation mean that I need to watch what I am saying. The Law Society campaigned for the break-up of the monopoly in High Court and Court of Session

proceedings. Solicitors wanted in: they felt that it was not in the public interest for the Faculty of Advocates to have a monopoly on rights of audience and representation.

The argument went along the lines that advocates cost too much money and that there was a need for consumer choice and so forth. The 1990 act introduced licensed conveyancers, and sections 25 to 29 were passed. The Law Society seemed to get its way, as we now have solicitor advocates and licensed conveyancers, with the latter being absorbed by the Law Society. Sections 25 to 29, however, have just disappeared.

**The Convener:** It is like a closed shop.

**Dorothy-Grace Elder:** Could that be because a rather large number of lawyers are elected to Parliaments everywhere, including at Westminster and in Scotland?

**Bill Alexander:** Some people might take that view.

**The Convener:** I do not think that there are any lawyers on the Public Petitions Committee.

**Dorothy-Grace Elder:** Not a single one—no need for the crucifix and garlic.

**Bill Alexander:** There is nothing wrong with solicitors. I work with solicitors who are tremendous examples of integrity and who believe in what they do. Most of them are happy to say that things should be opened up—they have no problem with that. However, it seems that the Law Society has a vice-like grip on the matter.

**Phil Gallie:** I do not intend to beat up the Law Society, or anyone else for that matter, but Mr Alexander has made an interesting point about article 6 of the European convention on human rights. The Scottish Parliament gave individuals the right to legally aided representation at employment tribunals on the basis of compliance with the ECHR. Given the importance of the ECHR—particularly article 6—by not allowing individuals to choose the person who is to receive payment for advancing their case at employment tribunals, could we be in breach of the convention?

**Bill Alexander:** Yes. That is a distinct possibility.

**Phil Gallie:** We should perhaps look into that issue further.

**The Convener:** Thank you. You made an interesting contribution, Mr Alexander. You are welcome to stay and listen to the debate on the suggested action.

It has been suggested that we write to the Executive seeking its comments on the issues that are raised in the petition. In particular, we should

ask the Executive to indicate if and when it intends to commence sections 25 to 29 of the 1990 act. Given that commencement of those sections was surely the intention behind the act and that the situation in Scotland is contrary to that in England, where a system of controlled competition exists, if the Executive has no plans to commence the sections, we should ask it to provide details of the rationale behind that decision.

The petitioner also suggested that we should consult the Scottish Consumer Council and the Office of Fair Trading on the issues raised in his petition, and I suggest that we should do so. Phil Gallie wanted to raise another issue.

**Phil Gallie:** Yes. I wanted to raise the question whether, under article 6 of the ECHR, individuals should be able to get legal aid for persons other than solicitors who represent them at tribunals.

**The Convener:** We will also ask the Executive for its comments on that point.

**Bill Alexander:** It might be worth while to write to the Lord Chancellor's Department in England. Competition has been introduced in England and it is working fine. There has been no adverse publicity whatsoever.

**The Convener:** Okay. We can also write to the Lord Chancellor's Department, asking it to provide us with information about the operation of controlled competition in the courts in England and Wales and whether that has been a success. Is that agreed?

**Members indicated agreement.]**

**The Convener:** We will keep you in touch with progress on the petition, Mr Alexander.

**Bill Alexander:** That would be great. Thanks.

### Abandoned Properties (PE602)

**The Convener:** The next petition is PE602, from David Cleghorn, on behalf of Dedridge community council. The petition calls on the Parliament to take the necessary steps to decentralise to local authorities the previously centralised power held by the Scotland Office, under planning regulations, to recover abandoned private sector properties. Four people have come to speak to the petition: David Cleghorn, Rosalie Walton, Councillor Danny Logue and Douglas Marr. I ask Mr Cleghorn to introduce his colleagues and to make a presentation, after which the committee will ask questions.

**David Cleghorn (Dedridge Community Council):** Thank you for allowing us to address the committee on our petition. This is the first time that two of us have been to the Parliament, and it has been interesting to watch the proceedings this morning. On my right is Councillor Danny Logue,

the councillor for Dedridge. I am the secretary of Dedridge community council. On my left is Rosalie Walton, who lives in Dedridge in close proximity to an abandoned house. On my far left is Douglas Marr, who works in the housing department of West Lothian Council.

Dedridge, where we come from, is a densely populated, mixed-tenure housing estate on the south side of Livingston. The population of Dedridge is more than 7,500 people in an area that is one mile by half a mile. Most of our houses are terraced houses, and any house that becomes vacant—for whatever reason—is immediately noticeable. Any house that lies vacant for a long time can attract all kinds of problems, including vandalism, upset to neighbours, rodents and environmental problems.

Over a number of years, the community council has heard of several instances of private properties—former council houses that were purchased by individuals and sold on—being abandoned and lying empty for several years. Folk have, rightly, asked us why that has happened and we have reported those cases to the council. However, the council has told us that it does not have the power to do anything about those properties; ergo, we have unhappy people and an unhappy community. That is why we have come here today.

Our petition is simple and sets out our understanding of the situation. Our colleagues from the council will keep us right on why they want the procedures and the application of the law to be changed. It seems that the council does not have the power to purchase the abandoned properties compulsorily under the rules that currently apply. The purpose of our petition is to get that power transferred from the Scotland Office to the Scottish Executive and for the Executive then to devolve the power to local authorities so that they will be able to exercise it when they have exhausted every other avenue in respect of the empty properties.

**Rhoda Grant:** I am very interested in the petition. What are the reasons for people abandoning their properties? I understand that that happens quite often and that private owners are involved.

**David Cleghorn:** Danny Logue will answer that question. He is the chair of the council's housing appeals special sub-committee.

**Councillor Danny Logue (West Lothian Council):** I have received many complaints from members of my community regarding abandoned properties. One such property was repossessed four years ago after it had caught fire. It was the third house that the owner had set on fire for the insurance money. It was repossessed by the

building society and sold to a property developer, which hoped to send someone round with a couple of tins of paint to paint the building up and re-let it. It is a five-bedroomed property with a staircase that goes up to the loft, so it potentially has seven bedrooms. It also has a dining room, a large kitchen and three bathrooms.

Such houses sell for about £92,000—they are not on what might be called a run-down council estate. Many of our houses are going through one of the largest-ever refurbishment programmes. They are being fitted with new kitchens, high-quality bathrooms, double glazing, new roofs and so on. It is not as if our estates are run down. We are one of Scotland's leading councils for housing.

The property is now noticeable, in that part of the roof has now disappeared and it has been boarded up because it is continually vandalised. The grass is about four feet high. There is still food in the building after many years. However, we are not allowed access to the property. Our correspondence on the matter has gone on for months, if not years; my initial correspondence, in which I asked that something be done, started in February 2000. It took nearly a year to locate the present owner but by that time, the house had deteriorated to a terrible condition. It must be remembered that the house is between two tenants' houses.

The property was in such a terrible condition that building control had a look at it, but a notice could not be served because the building was assessed as borderline. Commitments have been given by the owners that work would be carried out within about three months, but the legal department for the present owners has continually used stalling tactics to try to prevent the building from being done up. I do not know why.

One of the neighbours was under such stress that he took a severe heart attack. He had to be moved out because of smoke inhalation and the damage that was done to his property. He is now so ill that he no longer comes to see me but must send his daughter instead because he was told not to overstress himself. This man used to work six days a week but he now goes round in a wheelchair. All of that is directly related to the problems with the neighbouring house.

The house was last vandalised yesterday. The police were called out because a group of youths were running riot in the house. They smashed any remaining windows, ripped out most of the plumbing and put holes through the walls. Such incidents are a constant problem.

We have asked the owner's legal department for the building to be refurbished but still nothing has happened. We therefore ask that the Executive give the local authority the powers that are

currently held by the Scotland Office so that we can compulsorily purchase such properties within a limited time frame. Our legal department has been negotiating with the Scotland Office to try to get it to use the legislation, but because the lawyers for the property's owners issue correspondence claiming that something will be done, the problem has gone on for four years. That just is not on, but there is nothing that we can do about it.

**Irene McGugan:** That gives me a nice lead-in for my question. What has been your experience of trying to get the Scotland Office to act by using its existing power? Does the problem go wider than Councillor Logue's community? Do other local authorities have similar difficulties when trying to progress such matters through the current system?

**Councillor Logue:** We had a couple of houses of a similar nature—one in the same street and a couple in other communities in West Lothian. I know from having downloaded information from the internet that other authorities have had similar problems. I know that many areas have similar outstanding problems.

When their house is repossessed, many owner-occupiers tend to abandon the property. In a few circumstances, the house had actually been paid off and the people who owned the house passed it on to their family. However, the family just left the house as they did not have enough money at the time to do it up and did not want to sell it at a discounted rate.

It must be remembered that the council approached the owner of the property in question and said, "We'll buy it off you." We were told, "£92,000 would be nice, thank you." The house needs a new roof and a new heating system and all the walls need to be stripped out. It would probably cost us £30,000 to £40,000 to refurbish it.

**Irene McGugan:** The point that I am trying to make is that you currently have the capacity to refer such matters to the Scottish ministers to make a compulsory order. Have you ever tried to get them to make such an order?

**Councillor Logue:** We must follow certain legal guidelines first. We have never been able to reach the starting blocks. We must follow the legislation and consider the owner. We must first attempt to buy the property from him or get him to do something with it. The lawyers of the person in question continually use stalling tactics, so we are at a loss. There is nothing that we can do.

12:00

**Irene McGugan:** So you never reach the point at which you have everything in place to—

**Councillor Logue:** We cannot pass go.

**The Convener:** The housing legislation that governs the matter and the guidelines that must be followed before a compulsory purchase order can be requested must predate devolution. Which act applies?

**Douglas Marr:** It is the consolidated housing legislation and the Housing (Scotland) Act 2001; the previous legislation was probably the Housing (Scotland) Act 1966. Our problem is the hoops that we must jump through and the hurdles that we must go over. Certain things must be proved. The state of disrepair of a property has been mentioned. Defining what serious disrepair means is a problem. One must also prove that a property has been empty over a protracted period. It must be proved that one has taken reasonable steps. There is a lot of red tape and bureaucracy in the process and a lot of public money is involved. Is there good value for money in the example that Councillor Logue mentioned? The local authority takes part in the empty homes initiative, which has been ideal for recovering property if the owners are willing to sell, but there is a problem if owners are identified and are not willing to sell or will not accept the market value of the property.

On perceptions, it can look like the council is doing nothing and that properties are lying empty in estates. The first assumption is that the house is a council house and that the council has left it empty and is doing nothing about it. We must counter such assumptions, but when we do so, we have problems. The existing legislation makes things difficult and does not work for us. We are here today because we do not have the end ownership of the process.

I reiterate what has been said about communities' interests. As soon as a house or property appears to be empty, it becomes an attraction. The legislation needs to be streamlined and the local authority needs ownership.

**The Convener:** Before Phil Gallie says something, I would like to clarify a matter. Have Scottish Executive ministers given any indication that they want to retain the power in question? Is there resistance to passing power down to local authorities?

**Douglas Marr:** I think that this is our first journey through the process.

**Councillor Logue:** The legal opinion that we have received from the Scottish Executive is that the matter that we are discussing still comes under the old legislation, but there will be a review at some point in the future.

**Phil Gallie:** The problem exists not just in areas where there are council houses; it also exists with business premises and old private properties in



particular. Has West Lothian Council or the Convention of Scottish Local Authorities made any representations on the issue? Have housing officials recognised and highlighted the problem in the past?

**Douglas Marr:** On the shortage of accommodation, there is a great housing need—

**Phil Gallie:** I am not thinking about accommodation shortages. You have identified a real problem. Have West Lothian Council or COSLA discussed the matter? Have they made any representations to the Executive?

**Douglas Marr:** I am not aware of any representations.

**Phil Gallie:** Would that be a good starting point? I am surprised that representations have not been made before.

**Councillor Logue:** When we investigated the legislation, we were surprised by how hard it is to purchase a property compulsorily—in fact, doing so is almost impossible. We came to the Scottish Parliament with the petition because we thought that it would be the best organisation to put pressure on the Scotland Office to have the power in question transferred down to the local authority.

**Phil Gallie:** You mentioned the Housing (Scotland) Act 2001. We parliamentarians had a chance recently to consider housing issues, but the issue that we are discussing seems to have escaped our notice. That is why I am asking about previous COSLA involvement and whether people have raised the issue before.

**Councillor Logue:** It was presumed that the empty homes initiative would address the problem, but it has not.

**David Cleghorn:** I would like to make one point on behalf of the community. We elected you people. This issue is causing major problems where we live. The community, which is nice, is densely populated. Eighty per cent of folk have bought their houses and the other 20 per cent rent. Tenure is not an issue; it is about how the streets look and how folk feel. We expect you as a Parliament to do something about it. We are not interested in passing the buck from organisation to organisation. We are not here to play those kinds of games. Members of the Parliament may want to, but we do not. We want the politicians to sort the matter out.

**Rosalie Walton (Dedridge Community Council):** I would like to add something on behalf of those who live in the conditions described. I am an environmentalist by profession, and people's environment is not just about butterflies and birds; it is about the boarded-up house next door that people see when they draw the curtains in the morning. That type of environment causes many

health problems and depression, which are bound to creep in.

I moved to Dedridge 25 years ago when the council was known as Livingston Development Corporation. Every house was owned by the public sector, and maintenance was just part of the story. Every house was maintained and cleaned, and if they were not, something was done about it. Over the past 25 years, I have seen small pockets of depression and undermaintenance gradually creep in.

Rhoda Grant's question was interesting: why should people own property and do nothing about it? We must consider the economic climate. Property, including former public sector housing, is a good investment. Sometimes people invest in houses and sit on them in the hope that they will always be a good investment, unlike personal equity plans and individual savings accounts. That depressing occurrence does not happen just in Dedridge, and its frequency is bound to increase unless we have legislation to halt it.

**Dorothy-Grace Elder:** About eight or nine years ago, a scheme was instituted in London to recover abandoned private property. A helpline was set up so that the public could shop abandoned properties. Through the scheme, several thousand houses that were wasting away were recovered. With all the mix-max and terrible confusion, sometimes it turned out that one of the local boroughs owned the houses. Nevertheless, the scheme helped to revitalise parts of London. Some of the properties were posh, and others were poor. It might be worth contacting the London mayor's office to see whether the scheme is still thriving—I last checked a number of years ago.

**Councillor Logue:** We understand that, but we find that when we locate the owners they do not want to do anything about their houses. They point-blank refuse. They say that they will get to it when they have the time and the finances.

**Dorothy-Grace Elder:** London put some teeth behind the scheme. I cannot remember exactly how it was done, but the people working on it did not just want to have a list of abandoned properties; they acted on the list through local boroughs and so on. I cannot recall whether the mayor's office ran the scheme, but I am sure that Ken Livingstone could give us guidance.

**Councillor Logue:** Dedridge community council could tell people that they have six months, for example, to do certain things to a property or we will compulsorily purchase it. That should force an owner into doing something. If we bought a property compulsorily, we would have it valued at what it is worth, not at what the proprietor assumes it is worth.

**Helen Eadie (Dunfermline East) (Lab):** I would like you to refresh my memory. I know that at one point local authority finance committees had the discretion to give relief on council tax, but in recent years that has changed. What is the current council tax position in respect of empty homes? At one time council tax was paid on such homes at only half the normal rate. Is that still the case?

**Douglas Marr:** There are various circumstances in which council tax is not payable. An earlier petition related to residential establishments for the elderly. If someone who has a property goes into hospital for a time, council tax will not be payable on the property for that period. A discount is also applied to empty properties, if whoever owns the property contacts the council.

**Councillor Logue:** We have a list of bills that the owner-occupier owes us for works to board up his property to make it safe, because it was being set on fire and vandalised. We are still waiting for him to pay those bills. We are constantly in contact with his lawyer but we have not received much money.

**The Convener:** We will now consider the action that has been suggested on the petition. We take the point that so far this issue has escaped the notice of the Parliament. The Housing (Scotland) Act 2001, which was passed in the first session of the Parliament, dealt with the social rented sector. As we have heard this morning, the empty homes initiative does not address the problem that the petitioners highlight. I know that the Executive has long promised legislation dealing with the private sector, which might provide the opportunity for us to do something about houses of the sort that we are discussing.

It is suggested that we seek a response from the Executive by asking it to comment on the issues that the petition raises. In particular, we should ask it for details of its policy position on this matter and to indicate whether it has plans to devolve responsibility for authorising compulsory acquisition of abandoned properties to local authorities. We should also ask the Executive to indicate how often Scottish ministers have authorised such compulsory acquisitions and request details of the circumstances and time scales of those cases. Finally, we should ask the Executive to comment on the petitioners' suggestion that abandoned private properties could be acquired and used as a means of boosting dwindling local authority housing stocks.

From questions that were asked earlier, I suspect that we will want to ask COSLA to set out its position on PE602.

**Dorothy-Grace Elder:** We should also write to Ken Livingstone.

**The Convener:** We should ask Ken Livingstone or whoever is responsible to outline the system for recovering abandoned properties in London.

**Dorothy-Grace Elder:** I am not sure whether that is done through the mayor's office or through the boroughs, but there is a system and the authorities in London should be able to provide us with information about it.

**Helen Eadie:** Can we ask the Minister for Finance and Public Services about the council tax situation?

**The Convener:** We will ask the Executive about that.

**Phil Gallie:** I might be able to help on that issue. I recall a bill in the mid-1990s that gave local authorities discretion to decide how much council tax they would take from empty residences. I know of one chap whose business went bust and who was dying to get rid of his properties. He would have loved a compulsory purchase order to be served on them, simply to get rid of them. However, at the time the council's funds were limited.

I am not trying to pass the buck on this issue from parliamentarians to COSLA or any other organisation. As the convener said, no thought was given to the issue during consideration of the Housing (Scotland) Bill, although the problem has existed for quite a long time. If possible, local authorities should get COSLA's backing to add to the pressure that parliamentarians are putting on the Executive.

**The Convener:** We will ask the Executive to confirm the position on council tax.

12:15

**Helen Eadie:** Local authorities should not have discretion to be generous to owners who leave their property empty. On the contrary, punitive levels of council tax should be imposed, unless the owner can provide justification—because the occupant is in a home, or elderly, or in hospital, for example. The current policy should be stood on its head.

**The Convener:** Okay. We can consider that once we get a reply from the Executive.

I thank the petitioners again for their evidence this morning and for bringing the matter to our attention. We will keep you informed of progress as the bodies send their replies.

### **Further Education (Governance and Management) (PE583)**

**The Convener:** PE583 is from Joe Eyre on behalf of Further Education Fightback, calling for

the Scottish Parliament to inquire into the governance and mismanagement of Scotland's further education colleges, and to consider reforming the legislative framework governing further education.

Members will recall that at a previous meeting, in December, we considered PE574, which raised specific issues concerning alleged mismanagement at Central College, and more general matters regarding the democratic accountability of college boards of management. Within that context, the committee agreed to seek comments from the Association of Scottish Colleges and to ask the Executive to clarify the outcome of its recent review of the governance and accountability of Scottish further education colleges and the likely publication date and for further information. We are still awaiting a response from the Executive.

It is suggested that we agree to link this petition with PE574, as the issues they raise are almost identical. We might also agree to pass a copy of the petition to the Executive, so that it can respond to any additional issues raised when drafting its response to PE574. We would then consider both together when we receive the Executive response. Is that agreed?

**Members indicated agreement.**

### **Scottish Census 2001 (Pagans) (PE600)**

**The Convener:** PE600 is from John Macintyre on behalf of the Pagan Federation (Scotland). It calls on the Parliament to urge the General Register Office to carry out a count of those who entered "pagan" as their religion in the 2001 Scottish census and requests that this information be made freely available to the public. The matter relates to the decision taken by the GRO not to conduct an analysis of the written answers received in response to its question 13(a), on other religions. The GRO will only do an analysis if the person requesting it is prepared to pay the cost, which is roughly £1,500. Apparently, that is because the form used in Scotland was not the same as that used in England and Wales, which had a series of boxes that could be ticked and automatically counted. A physical count would be required in Scotland.

It appears that the GRO is unable to produce and publish the statistics requested by the petitioner without conducting a significant clerical exercise involving the coding of individual replies at a cost of around £1,500, which must be met by those seeking the information, in line with census legislation. Had there been enough space on the census form to allow automatic coding for the "Another Religion" category, the information requested by the petitioner would have been

produced as part of the standard census output. It is suggested that any decision by the GRO to collate and publish data on the number of pagans in Scotland at no charge could set a precedent, resulting in several demands for information at no cost, which could prove to be an impractical misuse of public funds.

However, if we are of the view that all information gathered as part of a census should be public, we could agree to write to the GRO seeking an indication of whether the problem of insufficient space on the census form will be resolved in time for the next census, to allow all boxes, including the "Another Religion" field, to be coded automatically and so appear as part of the standard census output. We could also refer the petition to the Equal Opportunities Committee for comment; I know that its members examined the census form.

**Helen Eadie:** That would be a reasonable course of action.

**The Convener:** Is that agreed?

**Members indicated agreement.**

## Current Petitions

### Allergy Clinics (PE276)

**The Convener:** PE276 is from Ms Elizabeth Girling on behalf of the Lothian Allergy Support Group, and calls on the Parliament to establish specialist clinics for the diagnosis and treatment of allergies in national health service hospitals in Scotland.

We have already considered the response from the Executive and the Scottish Medical and Scientific Advisory Committee, which helped the Executive on three separate occasions, and have agreed to send a copy of the Executive response to the petitioners to establish whether they are content with what is proposed.

We have now received the petitioners' response, which broadly welcomes the steps that the Executive is taking to strengthen the most specialised consultant-led services that are provided regionally and to explore the benefits of establishing managed clinical networks that link primary and secondary care. Perhaps most important, the petitioners welcome the Executive's offer to meet them and other interested groups with a view to producing a comprehensive guide to allergy services and finding out how existing information can be made more widely available.

Therefore, it is suggested that the committee agrees to write to the Executive, recommending that a meeting with the petitioners should be arranged as soon as possible and that they should be supplied with copies of the documents requested in their response. It is further suggested that we write to the petitioners to indicate that, on the basis that the Executive is taking a positive approach to addressing the issues raised in the petition, no further action should be taken. It could be pointed out that it would be open to the petitioners to submit another petition at a later date should there be a failure to make progress. A copy of the petitioners' response could also be sent to the clerk to the Health and Community Care Committee for information.

**Helen Eadie:** I have taken a keen interest in this matter and think that we have reached a good outcome. I hope that, as you have said, the petitioners will inform us of any other concerns that they might have in future.

**The Convener:** Do members agree the suggested course of action?

**Members indicated agreement.**

### Social Services Policies (PE432)

**The Convener:** PE432, from William McCormack, calls on the Scottish Parliament to

recommend to local authorities that any independent appeal or review panels that are not empowered to alter or change faulty social services policies but which are allowed only to make recommendations back to the very committees who originally authorised the faulty or illegal policy will never be seen as independent or fair. As a result, the petitioner seeks a review of such complaints review committees.

We have already considered the petition and the responses from the Scottish Executive and Dumfries and Galloway Council. We agreed to ask the Executive for an update on information about the initiatives that have been introduced. We have now received that update, and the Executive hopes that its initiatives will improve the system of complaints in relation to the social work functions of local authorities.

The process of advising local authorities that complaints review committees should consist of three independent members has now been completed, and such a step should ensure that local authorities comply with the European convention on human rights. However, it is too early to say whether the proposed review of the complaints procedures for community care services is likely to take account of the petitioner's concerns as the Executive still has to consult local authorities on the review's scale and scope.

The Executive supports the work being carried out by COSLA to promote self-regulation in relation to the inconsistencies in charging for non-residential care by local authorities, and it is hoped that change can be achieved by agreement. Although the Executive now has legislative powers to regulate non-residential care charging, it will hold them in reserve until the practical implications of COSLA's work, which is due to begin in October 2003, have been evaluated.

Steps are already being taken and others are proposed to address the inconsistencies in charging policy and to review appeals processes. Moreover, Dumfries and Galloway Council has reviewed its policy in relation to the petitioner's specific concern—which centred on the use of a couple's income for assessment purposes—and has agreed that although the issue was contentious, there should be no change in the policy. On that basis, it is suggested that the committee should agree to take no further action on the petition. However, it is further suggested that the Executive should be asked to ensure that the petitioner is invited to participate in any consultation exercise that may be conducted in due course as part of the review of appeals procedures. Are members agreed?

**Members indicated agreement.**

### **Advocacy (Mental Health) (PE436)**

**The Convener:** Petition PE436, from Ms Marcia Ramsay on behalf of Advocacy 2000, calls on the Parliament to take the necessary steps to ensure that, in the development of the Mental Health (Scotland) Bill, access to independent advocacy by individuals is implemented and that a duty is placed on health boards and local authorities to make provision for collective advocacy in hospitals and communities.

As Dorothy-Grace Elder and I know, advocacy was a central concern during the Health and Community Care Committee's consideration of the Mental Health (Scotland) Bill. In fact, the Executive conceded the whole issue at stage 2 and the bill now contains a duty on local authorities and health boards to provide advocacy services. In any case, people have a statutory right to access such services if they so desire.

The problem is that we cannot trace the petitioner. She has moved house and we have been unable to get back in touch with her. As the objects of the petition have been achieved, all that we can do is agree to take no further action on the petition. I hope that somebody out there knows where the petitioner, Ms Marcia Ramsay, is now. We shall continue to make efforts to find her and tell her of our decision. Is it agreed that we take no further action on the petition?

**Members indicated agreement.**

### **State Hospital (PE440)**

**The Convener:** Petition PE440 is from Dave and Lucille Crichton, calling on the Parliament to investigate the problems faced by patients who are ready to be released or transferred from Carstairs state hospital. Members will remember that we have considered the petition on a number of occasions, but agreed, before reaching a final decision, that we would obtain the views of the petitioners on the contents of the most recent Executive response. We have now received a response from the petitioners, which is set out on page 2 of the papers that members have in front of them.

When we considered the Executive's response in September 2002, we noted that steps had been taken to address the shortage of available beds in order to allow patients from the state hospital to be transferred to a local hospital. We also noted that a consultation is under way that contains options for improving services for mentally disordered patients. However, the petitioners have responded saying that they would like a firm timetable to be applied to the Executive's proposals. They also seek a firm commitment on the wider funding of mental health services. It is suggested that we may wish to consider whether it would be worth

seeking the Executive's comments on the points that the petitioners have raised. It is also suggested that we send a copy of the petitioners' response to the clerk to the Health and Community Care Committee for information only. Should we seek the Executive's response to the petitioner's response?

**Members indicated agreement.**

**The Convener:** Okay. We shall refer that back to the Executive and ask for an early response so that we can close the petition.

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

**The Convener:** The next group of petitions is about Scottish Natural Heritage. PE462 calls into question the science on which SNH based its decisions in relation to hen harrier sites on Arran. PE463, from Councillor Donald Manford, who was here earlier to talk on the Barra petition, comments on the allegedly erroneous reports of consultation carried out by SNH to sound out local public opinion on the Sound of Barra special area of conservation. Petition PE464, from Mr Robert Cunyngham Brown, calls on the Parliament to ask SNH to provide scientific justification for the list of rain goose special protection areas that it has classified or is in the process of classifying.

The petitions raise complicated issues, which we had a special evidence session with SNH to discuss. The most recent development is that we now have a response from the Scottish Executive to the points that the committee raised previously. Let us go through them one by one.

Petition PE462 calls into question the science on which SNH based its decisions in designating sites of special scientific interest and raises concerns about the availability of scientific data to the public. Petition PE463 questions allegedly erroneous reports of consultation by SNH. Petition PE464 questions the scientific justification for special protection area designations for the rain goose.

Petitions PE462 and PE464 question the scientific evidence relating to specific designations. An appeal process exists via the Advisory Committee on Sites of Special Scientific Interest in relation to the scientific validity of SSSIs. Its remit does not extend to special areas of conservation or to special protection areas, so there seems to be a gap in the appeals process. In its evidence, the advisory committee indicated that it might welcome an extension of its remit to cover SACs and SPAs and we must consider whether that might be worthy of further consideration. If we think so, the Transport and the Environment Committee could be asked for a view on whether

its successor committee should be invited to consider that issue in the new session. What do members think?

**Helen Eadie:** I think that the Transport and the Environment Committee should be asked to take a view on that in the new session.

**Rhoda Grant:** I am concerned that people can appeal decisions only on scientific evidence. It is difficult for Joe Bloggs in the street to go and get the scientific evidence that is required to appeal a decision. It is almost a paper exercise to include the other designations in the advisory committee's remit. The advisory committee needs to consider how the process can be made more accessible to people who have concerns, so that they do not have to complete a scientific study to have an appeal held. Rather than putting the onus on the person who is concerned about a designation, perhaps the committee could look into the science that SNH uses.

**The Convener:** That is an important issue. The Executive response rules out taking socioeconomic considerations into account as part of the appeals process, because of a European Court of Justice ruling that only scientific matters may be considered. That is something that the Transport and the Environment Committee may wish to consider.

**Rhoda Grant:** That is not really my concern. My concern is that quite a lot of my constituents have come to me and said, "We do not believe the scientific evidence. We work this land and we know what's on it, but we do not have the financial ability to carry out a scientific study that challenges what SNH is coming up with." There is an argument about the socioeconomic perception, but an appeals process based on the scientific evidence is not that accessible to ordinary people.

12:30

**The Convener:** The Executive has indicated that it will introduce provisions in the nature conservancy bill, which I think was announced this morning, to widen consultation on and notification of the designation of SSSIs to include local authorities, community councils and other local interests that are affected directly. That is to be welcomed and it might address some of the concerns raised in PE462.

PE463 raises concerns about the handling of the consultation process in relation to the Sound of Barra SAC. SNH has refuted the allegations made in the petition about its handling of the Sound of Barra consultation. It indicated that, in meeting the requirements of the European directive, it consulted 15,000 owners and occupiers, local authorities and a wide range of local and national representative bodies. It states that fewer than 1

per cent of those consulted lodged an objection. We now need to consider whether the petitioner's specific concerns justify his view on SNH's consultation procedures.

**Helen Eadie:** That is an important point. We have seen that, in the national health service, consultation means one thing to some people and another thing to others. It would be useful to review what the guidelines say about SNH's consultation procedures.

**The Convener:** What are you suggesting?

**Helen Eadie:** I am suggesting that we should go ahead with a review of SNH's consultation procedures. We would need to refer the matter to the Transport and the Environment Committee.

**The Convener:** So PE463 should be referred along with PE462 and PE464 to the Transport and the Environment Committee.

**Helen Eadie:** Yes.

**Dorothy-Grace Elder:** I wonder whether we should also refer the material to the Minister for Social Justice. In the Arran case, a farmer pleaded that he wanted only an extra 8 hectares on which to graze a few more cows, which would make the difference between the viability and non-viability of his farm. He could not get SNH to agree to that. As the convener said, SNH goes entirely on scientific evidence and ignores socioeconomic evidence, which is vital to the islands. It is obvious that there is huge discontent with SNH. We have had four or even five petitions on the subject, including the hedgehog petition.

**The Convener:** Rather than sending the petitions to different committees, we should refer the petitions to the Transport and the Environment Committee and leave it for it to decide whether it needs to consult other committees or ministers.

**Dorothy-Grace Elder:** I was wondering whether the Minister for Social Justice should be contacted, rather than the Social Justice Committee.

**The Convener:** I think that, on land issues, particularly in relation to SSSIs, SPAs and SACs, she would probably say that she had no remit and that the Minister for Environment and Rural Development was the relevant minister.

**Dorothy-Grace Elder:** I was thinking of the socioeconomic side.

**The Convener:** When we refer the petitions to the Transport and the Environment Committee, we can ask it to consider which ministers it should involve, particularly in relation to the socioeconomic considerations that the petitions raise.

**Irene McGugan:** I was not involved in the discussions on PE463, but it is stated that 15,000 owners, occupiers and others were consulted and

that fewer than 1 per cent lodged an objection. It could well be that the people felt that they were making their views known when they were consulted and that it was not necessary to lodge a formal objection. Perhaps they felt that, if they said, "I disagree with this and I have problems with it," they were stating their concern during the consultation. Perhaps they did not appreciate the fact that they had to lodge a formal complaint.

**Helen Eadie:** The other issue is that, as we all know, consultation means different things to different people. It can mean that an organisation simply puts advertisements in newspapers and asks people to respond, writes to individual people or has meetings and explains the detail of its proposals. We do not know what SNH's consultation procedures are. We could do with knowing more about the way in which our public bodies consult the public.

**The Convener:** Yes, but it is not our job to do that at the moment. We are deciding whether we should refer the petitions to the Transport and the Environment Committee to ask it whether its successor committee would be interested in considering the aspects of the petitions that we have discussed, which I hope will be the case. Do members agree to do that?

*Members indicated agreement.*

### **Nuisance Hedges (PE497)**

**The Convener:** Petition PE497 is from James and Pamala McDougall and has 850 signatures. It calls on the Parliament to urge the Executive, following its consultation exercise in 2000, to implement legislation at the earliest opportunity to alleviate the nuisance caused by hedges.

The Executive's response makes it clear that no legislative priority has been attached to the matter and that it had intended to use a member's bill introduced by Scott Barrie as a means of changing the legislation. It is unlikely that the bill will be implemented before the end of March when the Parliament is dissolved, but the Executive seems to be willing for Scott Barrie's legislation to be revived on the other side of the election.

It is suggested that we have two options. We could agree that, in confirming its commitment to supporting legislation on the issue, the Executive's response is reasonable and therefore we should take no further action. Alternatively, we could agree to keep the petition open to monitor the situation in the new session with regard to the progress of legislative proposals. If we keep the petition open, we could return to the matter if nothing happens on the issue after the start of the new parliamentary session.

**Phil Gallie:** I have one minor point. The Executive had an opportunity to act through the

Land Reform (Scotland) Bill, but it rejected an amendment on the subject. However, I go along with the recommendation to keep the petition open.

**The Convener:** I believe that, in its response, the Executive said that it did not think that it would be appropriate to use the Land Reform (Scotland) Bill for that purpose. In any case, if we keep the petition open and nothing happens in the next session, we can ensure that something is done. Are we all agreed to do that?

*Members indicated agreement.*

### **Criminal Memoirs (Publication for Profit) (PE504)**

**The Convener:** PE504, from James and Margaret Watson, calls on the Scottish Parliament to take the necessary steps to prevent convicted murderers and members of their families from profiting from their crimes by selling accounts of their crimes for publication.

We have considered this matter at many meetings. At the most recent meeting, we decided to seek a response from the petitioners to the latest information that we had received from various official bodies.

In their response, the petitioners make clear their concerns about certain statements that were made by the Executive in relation to the circumstances under which information was obtained by a journalist, which led to the publication of a magazine article purporting to be an interview with the convicted murderer of their daughter.

The petitioners are concerned that, in noting the Executive's comments, the committee has endorsed its view. They are concerned that, as a consequence, the impression has been given that they had tried to mislead the committee with their version of events. The petitioners have provided copies of letters from both the journalist concerned and the National Union of Journalists that indicate that no restrictions were placed on access to inmates at Kerelaw secure unit during the visit when this material was gathered. It is also claimed that access to inmates during the visit by the journalist was actively encouraged by the then director of social work of Strathclyde Regional Council.

I take this opportunity to put on record the fact that, by considering and noting the Executive's response to the petition, as we are obliged to do, we in no way implied that we supported or endorsed that response. I also make it clear that there is no suggestion that the petitioners had attempted to mislead the committee. The Public Petitions Committee takes great care to take all

evidence into account openly and fairly. I emphasise that the committee takes a consistent approach in focusing on the more general issues that are raised in petitions as opposed to more specific concerns. While we sympathise entirely with Mr and Mrs Watson, it is not the role of this committee to examine the case in detail. We must pursue the more general question of whether the publication of such material can be prevented.

That said, the petitioners' concerns appear to highlight a potential loophole in the current regulations governing access to material from inmates that relate to their crimes, which could subsequently be published in the press. Although the Executive has stated that no formal request for an interview was made or granted, it is claimed that a journalist was able to gather material for an article by being given free access to inmates during a general visit to a secure unit that had been sanctioned by the responsible authorities.

The committee could agree to copy the petitioners' letter to Executive officials, asking them to respond to the committee on that point. Officials could be asked to indicate whether any measures are in place or will be introduced to ensure that journalists or others who are given access to convicted criminals are made fully aware of the restrictions on the publication of certain material and are properly supervised during visits. It should be made clear that this information is sought only in connection with the committee's consideration of the more general issues that are raised by the petition. We can also ask for the flaw that the petitioners have highlighted to be fed into the consultation that is being undertaken by the Home Office with a view to legislating on the issue.

**Phil Gallie:** I have followed the case with interest, and I thought that we had picked up on the point about the gathering of information. Did we not pick up on that point at a previous stage?

**The Convener:** When we considered a previous Executive response, we thought that it was reasonable; we were not fully aware of the circumstances in which the visit by the journalists had taken place. We were led to believe that it was almost coincidental that they were able to gather during their visit information that had nothing to do with particular conversations. It has now become clear, however, that journalists not only exploited their general visit to the Kerelaw secure unit, but deliberately gathered material for publication afterwards. They were allowed to do so without any real restrictions or monitoring by the authorities concerned.

**Phil Gallie:** There was a total lack of supervision, judging from what happened.

Perhaps the clerk will remember what happened when we dealt with the matter before. Did we

simply pass the matter back to Mr and Mrs Watson for their reaction to what had been stated?

**The Convener:** We agreed to defer consideration of the petition until the publication of the Home Office's consultation. That will probably be after the Scottish parliamentary elections. The petition is still live. I am concerned about the way in which the interview was conducted and by the lack of supervision on the part of the authorities, as well as by the complete lack of consideration for the Watsons and their circumstances. The issue has to be pursued and, although we are moving away from the individual case, the matter has to be brought to the Executive's attention. It is fair to ask for the Executive's response.

**Phil Gallie:** We seem to be catching up with the matter.

**John Farquhar Munro:** We have to make it explicit that the Public Petitions Committee did not endorse—

**The Convener:** Absolutely. There was no question of our endorsing the Executive's position; we simply noted what the Executive was telling us, and we are now pursuing the legitimate points that the petitioners raised with us.

Are members happy with our proposed course of action on PE504?

**Members indicated agreement.**

### Planning Legislation (PE509)

**The Convener:** PE509, from Mr Russell Craig, concerns planning procedures. The petition calls on the Scottish Parliament to take the necessary steps to change planning procedures and to review the legislation affecting certain types of development, such as crematoria.

A response has been received from the Executive. Its view is that the current planning system is suitably robust and allows for planning authorities to prepare their own development plan policies and, with the support of planning guidance from the Executive, to determine individual applications. In certain circumstances—where there is a significant departure from agreed development plans or where a council has a significant interest in the proposed development—the planning system provides for applications to be notified to ministers for decision. The application that prompted PE509 has been notified to ministers, and the petitioner has had an opportunity to give evidence at a public local inquiry. The decision of that inquiry has still to be announced.

The Executive has made it clear that it is not aware of there being concerns throughout Scotland about the location of new crematoria. It says that it has not received calls for specific



planning guidance on the issue and that, therefore, no guidance on the subject has been prepared. The Executive's view appears to be borne out by that facts that the individual contentious planning application that prompted the petition has been notified to ministers under the existing statutory planning process, and that a full public local inquiry has been held. That inquiry has allowed all the relevant planning considerations, including local objections, to be taken fully into account.

As it would be difficult to justify a review of planning policy based solely on the concerns that are raised in the petition, it is recommended that we agree to take no further action on the petition.

**Dorothy-Grace Elder:** I wonder what view was taken by the Scottish Environment Protection Agency, which is our so-called environmental watchdog. Perhaps this is yet another incinerator case—that is what we must call these things, I am afraid—in which SEPA has raised no objection. As we know, the big fault in such matters is that SEPA considers not the site but only whether the proposal can work. SEPA has admitted that that is the case and the minister wants to change that. However, the local people may be disadvantaged because it is too early for those changes to come into effect.

12:45

**The Convener:** However, there has been a public local inquiry into the planning application, at which people were able to give their input.

**Dorothy-Grace Elder:** The question is whether SEPA gave evidence and what evidence it gave. In other cases, SEPA's evidence to local public inquiries has been merely to say that it did not object or that something would work. SEPA confines itself—this is extraordinary for an environmental regulator—to the operation of any proposed development; it does not concern itself with where the development is to be sited. If a development were to be sited on the esplanade of Edinburgh castle, SEPA would make no objection and would look only at the technical plans. The proposed crematorium would be a totally unsuitable use of a public park, especially as it is near a children's playground.

**The Convener:** Dorothy-Grace Elder makes a fair point about the fact that SEPA does not comment on the site location of such developments. However, to be fair, that is not what PE509 is about. The petition is about the planning process. Given the fact that a full local public inquiry has taken place and that, as the issue has not yet been resolved, we do not know the final decision, there would be no point in calling for a general review of planning law on the basis of the

petition. That is the recommendation. Is that agreed?

**Members indicated agreement.**

## Post Office Services (PE513 and PE542)

**The Convener:** The two final current petitions, which have been linked together, are on the future of rural sub-post offices. The first petition comes from Phil Gallie MSP and the second is from Mervyn Jones, on behalf of the National Federation of SubPostmasters. As members will see, we have been dealing with the petitions for a considerable time.

I ask members to look at the suggested action. The PE542 petitioners feel that the Executive could do much more to encourage the use of the post office network. They are concerned that sub-postmasters will not benefit financially to any great extent from the support package for the rural network that was announced by the UK Government. However, the announcement is clearly a positive development, which it is hoped will provide some assistance in making rural post offices more viable and in preventing closures.

As well as providing details of the UK Government support for the post office network, the minister has indicated that the UK Government considers the maintenance of the universal postal service to be of the highest importance. An obligation to that effect was enshrined in the Postal Services Act 2000. That was the main issue raised in PE513.

In the light of all the responses that have been received to date and of the proposed action, it is suggested that we may wish to consider concluding both petitions. If the petitioners remain concerned after the UK Government initiatives have been developed and implemented by the Scottish Executive, they could submit a further petition.

The committee may wish to pass a copy of the latest responses received to the clerk to the Enterprise and Lifelong Learning Committee for information.

Does Phil Gallie, as one of the petitioners, want to comment?

**Phil Gallie:** Once again, I think that we have pursued the issue fairly well along the line. My only comment on the conclusions is that I am concerned about the commitment to a universal postal service. Postcomm's current activities seem to cut across the objectives that the minister underlined. I have grave reservations about some of Postcomm's moves, which could jeopardise the universal postal service. How do others feel about that?

**The Convener:** I, too, have reservations. I wrote recently to the regulator along similar lines to those that Phil Gallie has outlined. However, Postcomm's role as regulator and the universal postal service are matters that are reserved to Westminster.

Like Phil Gallie, I suggest that we have gone as far as we can with the petitions. If the new procedures do not develop in the way that the minister has promised, it will be open to the committee to come back to the issue in the new session of Parliament.

**Dorothy-Grace Elder:** I have one query about the level of funding. The figure of £450 million is mentioned in the paper. Is that a UK figure?

**The Convener:** Yes.

**Dorothy-Grace Elder:** The paper states:

"They estimate that around £7m has been allocated to the Executive from Westminster".

Is that an annual figure or a one-off?

**The Convener:** I am told that the figure of £7 million was not part of the £450 million—it is funding for different things—but we do not yet know how much of the £450 million will be coming to Scotland.

**Dorothy-Grace Elder:** I do not think that £7 million is too much.

**Phil Gallie:** As I hope the committee is aware, with the abandonment of the current system for benefit payments, part of the agreement is to introduce a postal charge card. I know of an individual who perhaps jumped the gun and wrote to the Post Office, saying that they wanted to take up the charge card, but the Post Office wrote back to say that the system had been abandoned. I queried that, and found out that a charge card system was abandoned in the past, but central Post Office staff were not aware that that system is not the one that is being talked about for the future payment of benefits. There is an element of confusion, which is of concern, because the charge card is important if rural post offices are to survive.

**The Convener:** As I understand it, there is a commitment that a charge card system will be available through post offices.

**Phil Gallie:** Members may wish to keep an eye on the fact that the Post Office might send out such letters.

## Convener's Report

**The Convener:** There are three short points to be made. It looks as though we will require an extra meeting of the committee, which will be on 18 March at 10 o'clock. Is that agreed?

**Rhoda Grant:** Is it possible to move it to the first Tuesday in March, or is that too short notice?

**The Convener:** We have meetings on 11, 18 and 25 March.

**Rhoda Grant:** I was thinking about next Tuesday instead of 18 March.

**The Convener:** The second point is that the meeting with Robin Cook MP of the Modernisation of the House of Commons Committee is on 4 March, which is the Tuesday before 11 March, at 11.30 in Cannonball House. I hope that as many members as possible can attend.

Finally, we have received a request from the German Parliament's Petitions Committee to visit us between 24 and 26 March. We have agreed to that request. A delegation will attend our last meeting on 25 March, and a meeting will be arranged to discuss petitions issues with the German committee. It is also hoped that a dinner can be arranged for that evening, which I hope as many members as possible will be able to attend to meet the German Parliament's Petitions Committee. Details will be issued to members individually in due course.

It looks as though we will have to go for 18 March, because we have the meeting with Robin Cook on 4 March. Time has run out.

**Phil Gallie:** On that point, I spoke to the clerk earlier. I had accepted the meeting on 4 March but I cannot attend now, so I apologise in advance.

**The Convener:** I thank members for their attendance.

*Meeting closed at 12:53.*

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