

PUBLIC PETITIONS COMMITTEE

Tuesday 18 March 2003
(*Morning*)

Session 1

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PUBLIC PETITIONS COMMITTEE

6th 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 :

Dennis Canavan (Falkirk West)

Margaret Cuthill

Andrew Gunn (Scottish Haemophilia Groups Forum)

Andrew Hughes

Jane MacMaster

Mr Lloyd Quinan (West of Scotland) (SNP)

Jim Slaven (James Connolly Society)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Joanne Clinton

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Tuesday 18 March 2003

(Morning)

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

The Convener (Mr John McAllion): I welcome everyone to the sixth meeting this year of the Public Petitions Committee. I extend a special welcome to Lloyd Quinan, who is here to support the first petition.

Items in Private

The Convener: Before we move to consideration of new petitions, I ask members to agree to take in private items 3 and 4 on the agenda, which relate to the committee's draft annual report and draft legacy paper. Is that agreed?

Members *indicated agreement.*

New Petitions

Scottish Human Rights Commission (PE603)

The Convener: The first item on our agenda is consideration of new petitions. The first petitioner is Jim Slaven, on behalf of the James Connolly Society. His petition calls for the establishment of a Scottish human rights commission. Mr Slaven, you have three minutes to make an opening statement before I open the floor to questions from members of the committee.

Jim Slaven (James Connolly Society): Thank you for giving me the opportunity to say a few words in support of the petition. It is important that we set out the background to the petition, which seeks the establishment of a Scottish human rights commission.

The commission would be based on article 14 of the European convention on human rights, which deals with discrimination. For some time, the James Connolly Society has campaigned against discrimination and for equality. It is important that we set up a commission that deals specifically with human rights. I refer members to a United Nations report on human rights that sets out the position on cultural rights in the British state. Paragraph 13 of the report by the Committee on Economic, Social and Cultural Rights states:

"The Committee is concerned that human rights education provided in the State party to schoolchildren, the judiciary, prosecutors, government officials, civil servants and other actors responsible for the implementation of the Covenant does not give adequate attention to economic, social and cultural rights."

The United Nations is saying clearly that there is a deficit in this country as regards cultural rights.

It is important that we compare what we have proposed in our petition with what the Scottish Executive subsequently proposed in a consultation document. There are major differences between the two sets of proposals. The James Connolly Society welcomes the consultation document that the Executive issued after our petition was submitted. We also welcome the opportunity that we were given to take part in the conference on the consultation document, which was informative and helpful. We will continue to play an active role in that discussion until the deadline for submissions to the consultation is reached in June.

The major difference between our proposals and the Executive's proposals is that we believe that the Scottish human rights commission must have the right to take up cases in its name. As I have indicated, we believe that there is a problem of discrimination in this country, especially against religious, political and cultural groups. The human

rights of individuals, groups and communities are often systematically abused. Many of those individuals and groups are not in a position to pursue cases under article 14 of the European convention on human rights, which deals with discrimination. If we are serious about challenging human rights abuses in this country, we should set up a commission with the right to take up cases.

Although we agree with the consultation document's assertion that the commission must have an educative role, provide information and be able to offer advice to bodies such as the police and councils, we believe that sanctions must also be available to it. The commission must be able to take up the cases of people who are unable to pursue those cases. The human rights commissions that have been set up in Ireland—even in Northern Ireland—have the right to pursue cases.

In its consultation document, the Executive states:

"Ministers have already decided that the Scottish Commission will not be empowered to take on individual complaints."

However, it offers no explanation for that decision. In our submission to the consultation, we will challenge the Executive's decision. For that reason, it is important that the petition should proceed on its own merits. We would like the Public Petitions Committee to refer the petition to the Equal Opportunities Committee, the European Committee and to one of the justice committees, so that it can be discussed separately from the Executive consultation.

The Convener: Lloyd Quinan is here in support of the petition.

Mr Lloyd Quinan (West of Scotland) (SNP): If members have been to their desks this morning, they will have seen a copy of the report on the first seminar of the consultation on the establishment of a human rights commission, which I attended and to which Mr Slaven referred in his presentation. When they read that report, they will discover that the majority of people who attended the seminar—representatives of non-governmental organisations and of the voluntary sector in Scotland and international contributors representing primarily human rights commissions across the world—recommended that our human rights commission would not be in the spirit of the Paris principles if it was not able at least to support cases, if not to carry them through.

The key issue is that the proposal should not be seen as a potential budgetary pressure. I suggest that the commission's ability to carry individuals' cases through with its imprimatur would be subject to the rules on legal aid, which will be relevant to the commission's development. We are a new

Parliament and we should consider the models throughout the United Kingdom—particularly the one in Northern Ireland. We would sell ourselves short if we did not give the commission the ability to take up cases.

I agree with the petitioner's submission. I ask the committee to forward the petition to the European Committee for its confirmation of the Paris principles, which lie behind article 14 of the European convention on human rights; to the Equal Opportunities Committee, for obvious reasons; and to whichever of the justice committees is the lead committee on the matter. I hope that the Public Petitions Committee will see fit to pass the petition on to those three committees.

Helen Eadie (Dunfermline East) (Lab): The Equal Opportunities Commission in Manchester has a facility for pursuing complaints on behalf of complainants, as does the Disability Rights Commission, I understand. Will you explain the rationale behind not proposing that the Scottish human rights commission could pursue complaints?

Jim Slaven: I agree with the spirit of what you say. The Executive has ruled out granting the commission the power, even though there would be parallels with other human rights commissions and other bodies in the state. During the consultation period, we must tell the Executive that it has not explained that big omission.

Dr Winnie Ewing (Highlands and Islands) (SNP): Point 2 in part D of your petition refers to

"Informing the party of the available remedies and promoting access to them".

Should the measure be an alternative to or additional to taking legal action in a court?

Jim Slaven: Individuals would have the right to take action in court. However, the important factor is people who cannot do so. Article 14 is about individuals and groups who are discriminated against. The commission must have the right to take cases in its name on behalf of marginalised people.

Dr Ewing: I am not sure whether our views meet. Lloyd Quinan mentioned legal aid. If you had your way, you would hope that someone who approached the commission would have access to legal aid in the normal way. I still wonder whether you consider the commission a substitute for the courts or a way of giving people a choice.

Jim Slaven: We think that the commission would be in addition to, and not a substitute for, the courts.

Dr Ewing: Apart from Northern Ireland and Ireland, do you know whether any other places in

the European Union have such systems? We could find that out.

Jim Slaven: I do not know, but no human rights commission that has been established recently has omitted the right of the commission to take up cases. The spirit of the Paris principles is that a commission should have as broad a remit as possible. It is clear that the proposal is not in keeping with that. That is the major distinction that our petition makes.

Dr Ewing: You asked us to pass the petition on to the European scene. Did you know that that is unnecessary? Anyone can access the European Parliament's Committee on Petitions, just as you have accessed this committee today.

Jim Slaven: That is right. That avenue is open to us, but as we have submitted the petition to the Public Petitions Committee, we believe that it would help if this committee referred the petition to a European committee.

Phil Gallie (South of Scotland) (Con): Mr Slaven made a serious allegation that there was evidence of religious and political discrimination in this country. Will he please give me an example?

Jim Slaven: I could give you numerous specific examples, but the point is that we live in a state where situations arise in which people feel that their rights are being abused.

10:15

Phil Gallie: Well, give me an example.

Jim Slaven: For example, there is the way in which the Irish community is treated at ports and airports. We believe that the human rights of people from that community are regularly infringed when they are travelling back and forward, even when there is not a security element.

Phil Gallie: Are they, as European citizens, being treated any differently from citizens of any other European country?

Jim Slaven: Yes.

Phil Gallie: Would you explain how?

Jim Slaven: We believe that the existing legislation targets certain groups. In relation to people of north African origin, for example, legislation has recently been used specifically to target certain groups. If you do not accept that, let us have a human rights commission to which we can refer such issues so that it can make its judgments.

Phil Gallie: The issue is not whether I accept what you say. I would totally object if, under its governmental structures, this country discriminated against anyone on a religious or political basis. However, I am not aware of that

happening. Sadly, we live in an age of terrorism and, on that basis, some elements of control have to be put in place. So far you have not given me an example of our Government being in default on any issue of discrimination against anyone.

Jim Slaven: I refer you again to paragraph 13 of the report by the United Nations Committee on Economic, Social and Cultural Rights. I will not read out the whole paragraph again, but it says that this state

"does not give adequate attention to economic, social and cultural rights."

The United Nations is saying that there is a deficit. We are proposing that we should deal with that and set up an independent, effective Scottish human rights commission to examine the matter.

Dorothy-Grace Elder (Glasgow) (Ind): As you will be well aware, this is one of the oldest issues to come before the Parliament. I remember attending a conference in Glasgow in 1999, shortly after we were elected, at which Mr Jim Wallace made a stirring speech. Not much has stirred since, however. Why do you think that the matter has dragged on for four years?

The comparison with Northern Ireland seems to be the most significant, as Northern Ireland is part of the UK. Could you expand on your point? Do you think that the Northern Ireland Human Rights Commission really has full powers in this regard? Should we be aiming for exactly the same powers that are available there, or should we be going beyond that?

Jim Slaven: I do not know why it has taken so long for the Executive to proceed. Action is long overdue, however.

On the comparison with Northern Ireland, it seems absurd that, in the devolved state in which we now live, only one part of that state can have a human rights commission with certain powers. I do not think that the Northern Ireland Human Rights Commission has full powers; indeed, I would like its limited powers to be increased. However, it is outrageous that the Scottish Executive's proposal for Scotland does not even go that far.

The Northern Ireland Human Rights Commission has the right to take up cases. I would like the powers of a Scottish commission to be wider than that with regard to the ability to demand evidence from witnesses, to access documents and to go on unannounced visits. The least that we could expect would be for the Scottish human rights commission to have the same powers as its Northern Ireland counterpart. That means having the right to take up cases.

Dorothy-Grace Elder: You are saying that the right to take up cases is the most important point.

Jim Slaven: Yes. The central theme of our petition is that we should be complying fully with the Paris principles, which involves giving the human rights commission as broad a mandate as possible. That means the commission having the right to take up individual cases under article 14 of the European convention on human rights.

Dorothy-Grace Elder: You say that you have not been told why the Executive did not propose that the Scottish human rights commission should have the powers that you mention. Could you speculate on that? What are people saying?

Jim Slaven: To be fair to the Executive, there is a period of consultation, during which we would like to tease the matter out. However, the omission is stark. The Executive has simply said that such a right has been ruled out, but it has given no explanation whatever for its decision. It might be that, as Lloyd Quinan said, there are some budgetary considerations to take into account, but such matters could be quite easily got around.

Dorothy-Grace Elder: After all, there are also budgetary considerations in Northern Ireland.

Jim Slaven: Exactly.

The Convener: The petitioner is now free to listen to our discussion about how to proceed with the petition. I ask members to turn to the recommendation for further action, which was made before we heard from the petitioner. It suggests that, as the petitioners have the right to participate in the Executive's consultation, the committee should take no further action but instead simply recommend to the petitioners that they take part in the consultation.

That said, having listened to the petitioner's comments and the following discussion, I am aware that the Executive will introduce proposals to establish a Scottish human rights commission after the consultation is over. The petition should be fed into the system at that point. I should also point out that the three committees that have been mentioned—the Equal Opportunities Committee, the European Committee and either of the justice committees—will not deal with any petitions between now and the end of this parliamentary session. In any case, we would first ask for a response from the Executive. I suggest that, at this stage, we should write to the Executive and specifically ask why it has not included the power to take up individual cases in its proposals for a Scottish human rights commission. We should also ask it to comment on the UN committee report that was mentioned, which highlights a deficit in relation to discrimination in this country.

Dr Ewing: Convener, when you ask the Executive that question, will you also ask it to explain why a different situation exists in Northern Ireland—which, after all, is a part of the UK?

On a separate point, the first paragraph of the petition refers to a deficit of knowledge among the public about the ECHR. We should ask the Executive whether it has any plans to disseminate more information about an issue that really puzzles people. Perhaps that would be one of the main functions of a human rights commission—at least, it certainly should be.

Phil Gallie: I was happy with the original recommendations. However, I recognise that other members have different views. Given that we live in a free and unfettered democracy, I will go along with the majority's wishes on the matter. However, I should point out that the human rights record of the UK and Scotland is as good as any country's.

Helen Eadie: I agree with the course of action that the convener has proposed and I support Winnie Ewing's suggestions.

Rhoda Grant (Highlands and Islands) (Lab): I, too, agree with the proposed course of action. However, we should make it clear that a consultation is on-going. Despite the fact that certain matters have been written out of that consultation, that does not prevent anyone from reiterating the need for such a power during the consultation process. All of us who have worked on committees know that new measures appear in a bill that is put before Parliament because of responses to the consultation on the draft bill. Although the consultation does not cover the proposal in question, that does not mean that the petitioner should not respond to the consultation and raise that point.

The Convener: Do members agree that the committee should write to the Executive along those lines and that our successor committee can decide what to do when it receives the Executive's response?

Members indicated agreement.

The Convener: Obviously, the petitioner will be kept informed when the petition comes back on to the agenda.

Abortion (Information on Procedures and Risks) (PE608)

The Convener: The next petition is PE608, from Mrs Jane MacMaster, on the information that is given to women who undergo an abortion procedure. Mrs MacMaster is accompanied by Margaret Cuthill.

Jane MacMaster: I am a befriender of the British Victims of Abortion's helpline and Margaret Cuthill is a counsellor on the same helpline.

In answer to my query about the possible side effects of prescribed medication, my doctor replied that notification is compulsory for patient

information leaflets to ensure that the requirement for informed consent can be fulfilled. Therefore, I draw the committee's attention to the lack of information that is given to women who are considering abortion.

The Royal College of Obstetricians and Gynaecologists—RCOG—clinical guidelines state:

"Verbal advice must be supported by accurate, impartial printed information which the woman considering abortion can understand and may take away and read before the procedure."

The "Obstetrical and Gynaecological Survey 2003", a copy of which members should have received, publishes the most recent research on the possible physical complications of abortion. It reports a resultant loss of protection against breast cancer, subsequent to induced abortion, that is significant enough that women who are aborting their first pregnancy should be warned of the risk.

The journal also highlights the risks of future pre-term delivery and low birth weight and placenta previa. Those risks are significant enough to merit inclusion in the RCOG guidelines and patient information booklet, but they are not included at present. The "About Abortion Care" booklet states that doctors will advise on "the risks and complications" that relate to the specific abortion procedure that a woman will undergo. It is not clear who is responsible for giving the verbal information. Consequently, one can never be certain that the information has been given. Coupled with the booklet's inadequate information about the actual procedures and their associated risks, the need for more explicit printed information is highlighted.

Margaret Cuthill: In formulating its guidelines and information booklet, the RCOG did not consult groups with experience of post-abortion trauma, which is a type of post-traumatic stress disorder that is recognised in medical publications.

Abortion is often a knee-jerk reaction to a crisis pregnancy. The immediate response might well be relief, but the woman may question her abortion experience in the future.

Women seeking abortion are sometimes told that it simply involves the removal of tissue or cells. Any emotional attachment to the foetus is not addressed. The humanity of the unborn is hidden from the woman, so she is unable to grieve for her loss. That loss and any associated guilt are the most likely causes of post-abortion trauma.

Post-abortion trauma is acknowledged in medical journals to occur in 10 per cent of women post abortion. That is not highlighted by the RCOG, although the 10 per cent risk of post-abortion infection is listed.

The RCOG information booklet maintains that psychological complications occur in women who

have pre-pregnancy problems. The booklet does not list the types of pre-pregnancy problems for women to consider. The most recent research recognises that abortion increases the risks of psychological damage and mental health problems and acknowledges that women should be cautioned about those risks.

Jane MacMaster: We ask that the Parliament investigate the enforcement of the RCOG guidelines and consider the following points in relation to the inadequacy of those guidelines.

Women must be allowed time to consider all of their options before proceeding with an abortion. To that end, impartial and informed counselling, as well as printed information, should be made available. Both those information sources should consider all the options that are available to the woman, including parenting the child, having the child adopted or having an abortion. The New Zealand Ministry of Health provides such services in its information booklet, a copy of which members should also have received.

Any woman who is considering abortion should receive written information that includes: impartial and factual information on foetal development; information on the various methods of abortion and the associated risks of each procedure; information on the possible physical and psychological complications that follow abortion; and information on where to seek help if either physical or psychological problems are experienced at any time post abortion. If women have the choice of abortion, they must have the necessary information to make a truly informed choice.

10:30

Dr Ewing: I was a legal practitioner in Glasgow for many years and dealt with many clients who had to face this kind of choice. I saw that the psychological effects of abortion can carry on for a lifetime. Have you found that to be the case as well?

Margaret Cuthill: Yes, definitely. From the point of conception, the mother's life is changed. When they choose abortion, they think that they are solving the problem, but they might not realise that, as well as the loss that is associated with choosing an abortion, there are feelings of guilt and unresolved grief that, if not addressed, can affect their lives until the day they die.

Dr Ewing: The information that you have given us about the system in New Zealand is interesting. Are you saying that the RCOG guidelines are not printed and ready to be given to any woman who has to make such a choice?

Margaret Cuthill: The RCOG guidelines are issued after the decision has been made, but women need far more information to make the decision. The RCOG guidelines are purely to do with the type of abortion and the associated procedures. They do not address the crisis that the woman is in, the fear and panic that she might be feeling or the pressures that might be on her to force her to make a choice that she does not want to make. More information needs to be made available prior to the issuing of the RCOG guidelines.

Dr Ewing: Have you asked the RCOG to do that?

Margaret Cuthill: No.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): As we heard during the exchange between Dr Ewing and the petitioners, most people who present for abortion do so from choice. I accept that, in certain circumstances, some patients have to undergo the procedure because not to do so would have an effect on their health, but in most cases, the decision is a matter of convenience—the individual sees that choice as the best option at the time.

I am interested to know what sort of information you think should be given to people who present for abortion that they do not already get.

Margaret Cuthill: They should be given information about the risks that are associated with the various types of abortion procedures. The RCOG guidelines highlight them, but do not define them. Women should also be told that there is a possibility that they will experience emotional and psychological problems after the abortion. The RCOG guidelines do not do that.

With post-abortion trauma, there can be a long time between the abortion and the problems kicking in. In that regard, it is like post-traumatic stress disorder, in that the person might be able to cope as long as their lifestyle continues in a certain way, but a life crisis can cause their coping skills to crash. The RCOG guidelines do not tell women that that might happen.

John Farquhar Munro: Your point is that emotional as well as physical problems may follow an abortion, which can have a more profound effect on one individual than on another. I am sure that some people have abortions and do not suffer the effects that you are concerned about, but on other people, abortion has a profound effect. What sort of information would the medical profession be able to give that would cover every situation? I do not think that that would be possible.

Margaret Cuthill: The women should be informed about the physical problems that go with the various procedures that are used, depending

on the length of the pregnancy, and should be informed that they could suffer from long-term depression, nightmares, sleep disturbances, panic attacks, confusion and an emotional crash. I am not saying that every woman suffers in that way, but the RCOG guidelines do not even identify the risk of those effects.

John Farquhar Munro: Are you suggesting that there should be a document or information to provide blanket cover?

Margaret Cuthill: Yes. If someone was going to have any other operation, their surgeon would sit down with them and go through the options as well as the risks—physical and emotional—associated with each of the options. That is what is needed to give balanced information. At present, the information that is given in the RCOG guidelines is imbalanced and does not give the full picture. Many of the women make the decision in fear and panic and are then totally surprised by the impact on their emotions and feelings afterwards.

Phil Gallie: Other members have brought out the point that—perhaps quite rightly—the gynaecologists consider the medical aspects, the process and the medical conditions that could follow the operation, but the psychological aspect is not covered. How should that be covered? Up to now, we have considered the medical side of things, but the women's psychological state must be part of that consideration.

Margaret Cuthill: I feel that the system does not cover the fact that, as human beings, we have emotions and feelings, all of which need to be explored before the decision is made, depending on the internal and external pressures that exist in the circumstances. The woman must be allowed to explore her feelings and emotional well-being. Her life is out of her control. To allow the woman to explore each of those areas, and to take away the fear and panic so that she does not have a knee-jerk reaction, impartial individual counselling should be available.

Phil Gallie: You refer to the New Zealand document, which seems to cover many of the aspects that should be considered. Does that document go out to individuals when they seek an abortion? Is it issued compulsorily? Does a certain time have to elapse after the document has been issued before the abortion can go ahead?

Margaret Cuthill: The booklet was proposed and accepted for a time, and was given when a woman requested an abortion. It covered each important area that might be a factor in her well-being afterwards. Many of the women who ask whether the foetus is a baby when it is under 12 weeks might be told that it is just cells. They might go ahead with the abortion, because they think that it is not yet a baby. However, afterwards,

when they find out that it is more than just cells, that adds to the impact, the grief and the unresolved issues that they face. The information document was given when women found out that they were pregnant and pointed them to the areas that they needed to explore to make an informed decision.

Dorothy-Grace Elder: Dr Ewing and I were whispering about a factor that concerns us both. We believe that women who settle down in a stable partnership and who cannot conceive a baby often reach a crisis point. At that stage, the memories come back and the women blame themselves. Is that correct?

Margaret Cuthill: Yes. That is one of the trigger points. Many women have told me that they are in a stable relationship and want to start a family, but they cannot become pregnant. Such women go to the doctor to explore whether there is a physical problem with them or their partner, but in their subconscious is the question whether the abortion that they had many years before might be the problem. There are physical risks associated with abortion—perhaps 10 per cent of women who have one become infertile—but there can also be an emotional barrier that prevents women from conceiving.

Dorothy-Grace Elder: To clarify, did you say that the possibility of adoption is not even mentioned in British abortion literature?

Jane MacMaster: It is recommended that information on adoption should be given. The New Zealand booklet also mentions guardianship, which allows grandparents or other family members to look after the child and to have the main legal rights.

Dorothy-Grace Elder: In Scotland, there is no mention of adoption or guardianship in the literature, which deals only with the physical side of having the operation.

Margaret Cuthill: Yes.

Dorothy-Grace Elder: My career was in journalism, but I agree with Dr Ewing. Many women have mentioned to me that they suffered emotionally after an abortion and changed from the 17 or 18-year-old lass who had an abortion. However, I rather disagree with Phil Gallie—for most women, an abortion is not a matter of choice, because they are pressurised one way or the other. The problem is where impartial advice would come from because there are many groups that might present women with rather scary literature. Can you recommend a group that would give proper, impartial, balanced and kindly advice?

Jane MacMaster: The booklet that is handed out to women was written by the British Pregnancy Advisory Service and Marie Stopes International

UK. However, organisations that have experience of counselling women who have had abortions should be involved. I mention right away the British Victims of Abortion, but there might be others. There should be a balance, so that women can make a proper choice. If in future a woman has psychological complications, at least she will know whether it was her, her partner's or her parents' decision and whether she was pushed into it through fright.

Dorothy-Grace Elder: Would not it be better for it to be incumbent on medical professionals to sit down with women and raise those points?

Jane MacMaster: That is what the guidelines say at the moment, but one does not know whether the general practitioner or the gynaecologist should do it, which means that neither does, and the matter falls between two stools.

Margaret Cuthill: Voluntary sector groups such as CARE—Christian Action, Research and Education—should also be taken into account. Because it is a Christian organisation, CARE is pigeonholed and people believe that the advice is not impartial, but it has 150 crisis pregnancy centres up and down the country and trained counsellors who fall within the boundaries of the British Association for Counselling and Psychotherapy. CARE gives good counselling and allows women to explore options; it does not try to influence them in any way.

10:45

Dorothy-Grace Elder: Last, do you think that some of the improved literature that you would like to have should also be issued to men's groups, because the situation is the old story of all the feelings of guilt being put on the women? Should there be warning leaflets that state, "Don't put a woman in this position because she might have to go through this." Should there be education for men about what women suffer afterwards, for example psychological abortion trauma? Should scary operation shots be issued to the male population?

Margaret Cuthill: I agree with you strongly, because the male is the other half.

Dorothy-Grace Elder: Yes, but mostly he has scarpered.

Margaret Cuthill: We find that many men struggle as well when they realise the situation. Such education should be part of sex education, as should the risks that are associated with sexual intercourse. Men should be given that information.

Rhoda Grant: From listening to you speak, there appear to be organisations out there that will support and counsel, but they seem to be either

pro-life or pro-abortion. There does not seem to be anything in the middle, where somebody can go for totally neutral advice. More important, there does not seem to be anywhere where people can go to get assistance because, given the options, it will be difficult to go through the process without support. You mentioned adoption, for instance. That is all very well on the face of it, but there is the trauma of adoption. Someone would need support throughout the process. Is there room within the health service or social services to establish a group of people who could not only give the advice that you seek, but provide the support that people require after coming to a decision?

Margaret Cuthill: There are adoption organisations, but there is nowhere within the system right now that fills the gap. I do not know whether something within social services would be right to fill it, because there are influences there that might take a woman down a road that she does not want to go down. I do not know whether a good place might be GPs' surgeries, where nurse counsellors could be trained to set out all the options to women, with no other influences.

Rhoda Grant: My feeling is that someone would need specialist skills, and a GP or practice nurse might meet only a small number of people in such a situation. They might not be able to build up the skills or knowledge that they would require to help people. That is why I suggest something that is attached to the health service or to social services, where people would not influence a decision. Not only would they give impartial advice and support a person in coming to the right decision for them, but they would support them in the long term.

Margaret Cuthill: That would be an improvement and should be explored.

The Convener: I would like to be clear. You obviously think that the RCOG guidelines are inadequate, but are you claiming that they are being ignored and are not being implemented across the national health service? If you are claiming that, where is the evidence?

Margaret Cuthill: From my experience as a counsellor, I know that the majority of women who come to me who have had private or health service abortions were not given information about a helpline or a counsellor on leaving hospital. I was surprised to see the guidelines, as I had never heard of women being given such written information prior to having an abortion. I am not saying that, across the board, women are not being given such information. There will be pockets of acknowledgement that such information is required and where it is given, but until now, only lip service has been given to providing such information.

There is still a debate about whether there is such a thing as post-abortion trauma and whether only those with psychological problems will struggle. The information and support that are given will depend on whether those who meet such women acknowledge that the abortion is the root of their problem. I do not think that much information is provided currently.

The Convener: As members have no other questions, the witnesses are free to listen to the discussion on what to do with the petition.

It is suggested that members should agree to write to the Scottish Executive to seek its comments on the issues that the petitioners have raised. In particular, the committee should ask for confirmation of how the Executive monitors NHS trusts and other abortion providers in Scotland to determine the level and nature of information that is given to women who are about to undergo an abortion procedure and the long-term physical and mental health risks. The committee should ask for an indication of whether the Executive is satisfied that the level and nature of the information that is provided are adequate to allow women to make an informed choice about the procedure and for clarification of whether that information is based on the guidelines that the RCOG produced in 2000. It is also suggested that the committee might wish to write to the RCOG to ask whether it is satisfied that its guidelines are being followed and for details on how it encourages NHS trusts and abortion providers to adopt them. The committee could also ask for an indication of whether the RCOG is reviewing and publishing new guidelines in the light of any new research evidence, as it suggested it would do within two years of the guidelines being published. Do members have any other recommendations to add to those recommendations?

Dr Ewing: Do we have a copy of what the RCOG claims that it gives? I would like to see a copy.

The Convener: A copy will be distributed to members.

Dorothy-Grace Elder: In the letter to the Executive, the mental health risks to women should be stressed more than the physical health risks. The Executive might stress all the physical risks, but we have quite a clear picture that nowadays the mental health risks are possibly much longer term, as there are fairly safe surgical procedures for most operations.

The Convener: That will be emphasised.

Phil Gallie: Perhaps Dorothy-Grace Elder picked me up wrongly when she spoke about choice. I do not disagree with anything that Dorothy-Grace Elder or Winnie Ewing said, but I want to stress that I am disappointed that the kind

of information that is in the New Zealand document is not automatically available to people who present for an abortion and are considering the process. If a person intends to take a life by having an abortion, the procedures that must be gone through should be clearly and mandatorily set out—there should be a full explanation of all the choices. We should say to the Executive that not only the RCOG should be involved. Dorothy-Grace Elder said that there is a mental aspect to the matter. The Executive should consider the controls that are imposed on the overall process and the information that it should supply prior to a person's making that choice.

The Convener: We can ask the Executive to comment on the New Zealand document and to explain why it does not provide a similar document in Scotland.

Rhoda Grant: I am concerned that we are constantly asking for written material and not concentrating on the possible provision of emotional support and guidance as a result of that material. Somebody in a crisis might not even read the material that they are given. The emphasis should be on someone giving people information, guiding them through the process, showing them all the options and allowing them to reach a decision. They should almost remove the crisis, calm the situation and give the person time and space rather than bombard them with leaflets and written material that could simply add to their confusion and feeling of crisis.

The Convener: We could ask the Executive about the level of counselling support that is available to women who are considering having an abortion and about its plans to expand such support in future.

Phil Gallie: I do not disagree with what the convener has said: personal contact is all-important. However, a mandatory trail should be followed. The process that people must follow before having an abortion should be laid down and they should have to consider certain things. I support totally the provision of as much counselling as possible thereafter.

Rhoda Grant: Counselling must be provided before as well as after the abortion. It is too late to tell people that they can have counselling after they have made a decision, because they cannot go back on that. They need counselling beforehand to guide them through the process.

Dorothy-Grace Elder: The petitioners have raised an emotional issue in a restrained way, which has impressed us. The issue affects tens of thousands of women. We are not holding up the New Zealand literature as perfect. Although it mentions adoption as one avenue, it does not give the address of a responsible adoption society or

indicate that most countries are terribly short of babies for adoption. In other words, no baby is an unwanted baby.

The Convener: We are not taking a position on the issue. We are simply asking the Scottish Executive to explain its position, which will enable us to arrive at a position.

Dorothy-Grace Elder: Yes, the Executive should explain its position and try to improve matters.

The Convener: Do we agree to write to the Executive in those terms?

Members *indicated agreement.*

Contaminated Blood (Public Inquiry) (PE611)

The Convener: The next petition for consideration is PE611, from Mr Andrew Gunn, on behalf of the Scottish Haemophilia Groups Forum. The petition calls on the Parliament to initiate an independent public inquiry into matters related to the contaminated blood that was given to people affected by haemophilia, to determine proper compensation.

Mr Gunn, you have three minutes to make an opening statement. The floor will then be open to questions from members of the committee.

Andrew Gunn (Scottish Haemophilia Groups Forum): I am trying to catch my breath. I am sorry for leaving the room, but I have to drink a lot of water because the HIV medication that I am on makes me dehydrated.

The Convener: Take your time.

Andrew Gunn: Thank you for asking me to speak in support of the petition.

What has happened in this case is terrible. It is ironic that the first petition that the committee considered today should relate to human rights, as haemophiliacs have no human rights in this country. They cannot get hold of their medical records and they have been tested en masse, without consent, for hepatitis C. The organs of haemophiliacs who have died have been retained. However, that is just the tip of the iceberg.

Basically, everything that has happened is wrong in every sense of the word. There has been a murderous cover-up. Thousands of people will be sent to their deaths without truth or justice. In a developed nation in this day and age, that is an absolute scandal. We are far behind every other European country and every other developed nation in the world. We were one of the last countries to heat treat and to compensate or give any kind of justice. The situation is absolutely terrible. It is a murderous cover-up. We have tried

everything. We have signed every petition, been to every meeting and written to every politician. We have done everything that we could.

11:00

It is necessary to have the facts to form a sensible opinion on any issue. There is no point in having a discussion without having the facts. We do not have the facts. Westminster has fought tooth and nail to prevent that because, if the truth comes out, as has happened in other countries, there will be criminal proceedings. It is possible that senior civil servants, doctors, blood companies and even former health ministers and people in the House of Lords might be looking at jail sentences. We feel that there has been a total cover-up. The situation is shocking.

The blood bank meeting minutes from pre-1982 were shipped to Westminster and no one has seen them since. In 1979, there was a Government-funded report by haematologists into non-A, non-B hepatitis. Every hospital in the country has lied about using American products. Yorkhill was supposed to be the only hospital that used American products, but in the past few years it has emerged that hospitals all over Scotland used them.

It seems as if there are more lies every month. Recently, there have been lies about CJD. For two years, the Government knew that we had been infected with that. There have been lies, lies and more lies. I do not understand what we will have to do. We have tried everything. I have stood outside the Parliament all bloody winter. In this day and age, the situation is absolutely scandalous.

We feel that the Government has done everything that it can to limit damage. It has denied all responsibility, has given no information or information that is misleading, has confused the issue with political arguments, has refused a public inquiry and legal aid, and has shut down as much of the media as possible. The Government is banking on the social stigma that is attached to the subject, so that people will not talk about it. There have been delaying tactics, such as a Cabinet reshuffle or a general election, which have forced us into starting again every two years. The issue has been kept out of sight and out of mind. The idea is to keep the years ticking over until the voices of people like me die.

What do we have to do? I said jokingly to one MSP, "What will it take to move the Government? A pound of Semtex?" The next thing I knew, my phone was tapped and all the rest of it. That has happened to all the other campaigners. I do not want heads to roll just for the sake of it. For anyone to get closure on being given a death sentence, at least they need to know why. We

need some kind of truth, but that is the very thing that is being denied to us. All we want is the truth and justice. That is why I lodged petition PE611. I have also submitted some documents for circulation.

Even Lord Owen, who was the minister responsible for health in the 1970s, demands an open inquiry. In Ireland, each hepatitis C victim has been given £200,000 on average. In France, the health minister was put in jail. In Canada, four doctors and the Canadian Red Cross have just been charged. As those countries were all quicker to heat treat, they were less criminally negligent than the UK. The same applies to Italy and Japan and there is also Germany. It was seen fit to give American products that were banned in America to Scottish children in Glasgow. Many of the people with whom I grew up are dead.

There is also the issue of mass testing without consent. We were all made to sign a waiver to say that we would not bring any further legal action if the viruses were found, when it was known that we had hepatitis and that it was a big problem.

I am sorry for being emotional. I am on HIV medication, which has side effects of insomnia and depression. It is a bit of a nightmare. The documentation is available to members. The situation is plain for anyone to see. I do not see what else I can do.

The Convener: Thanks very much. You do not need to apologise to anyone. That was a very moving testimony to the committee. The debate is now open to members' questions.

Helen Eadie: Good morning, Andrew. You mentioned several countries, including Germany and France, but you did not say what has happened in each of those countries. Could you elaborate a bit on what has happened in France?

Andrew Gunn: Sure, although I am not an expert by any means. In France, in 1992, the former Prime Minister and the former health minister were put on trial for manslaughter. France was heat treating three years quicker than Scotland. Here, there would be even more likelihood of someone going to jail over this. That is why we are having such trouble in getting the truth. The former French health minister actually went to jail, although the Prime Minister managed to slither out of it. I am not entirely sure what happened in Germany, but it was much the same kind of thing.

Helen Eadie: You say that the former French health minister went to jail. What was the compensation for the victims?

Andrew Gunn: A news report states:

"Former head of the national blood transfusion center ... sentenced to four years in prison and a \$100,000 fine.

Former head of transfusion research at the center ... sentenced to four years in prison ... the centre was also ordered to pay \$1.58 million to the victims. Former public health director ... given a four-year suspended sentence."

It goes on like that.

Helen Eadie: Does the news report say how much each victim got?

Andrew Gunn: Aye. There were 4,000 to 5,000 French people involved, and about the same number of people are affected here. The compensation that each received was \$1.58 million divided by 4,000 or 5,000.

Helen Eadie: What happened in Germany?

Andrew Gunn: I am not entirely sure about what happened in Germany. There was a criminal investigation and the Government was accused of unnecessarily delaying the treatment of the blood products. The victims would have received \$900 a month in Government assistance as well as compensation. However, I am not totally up to speed on that. The latest criminal investigation took place in Canada.

The Convener: All the documents are with the clerks and will be available to members individually after the meeting.

Andrew Gunn: If a company was responsible—for instance, if someone went to BUPA to get a tooth out and they got HIV—the victim would be looking at compensation of about £500,000. If they got hepatitis C, they would get another £500,000 on top of that. Realistically, we should expect to get about £1 million each. I am sure that that would scare Malcolm Chisholm to the core. If the case went to court as if it were a company that was responsible, the Government would not have a leg to stand on according to David Owen, who was the health minister at the time, in the early 1970s.

John Farquhar Munro: Good morning, Andrew. You are convinced that there has been a massive cover-up. You have been prevented from finding out information and from getting any investigation or response from the Government or health boards. As a matter of interest, when did you first become aware that you had been given contaminated blood?

Andrew Gunn: I was infected during my childhood, but I was not told until I was 14, as it was not hospital policy to tell child victims. I could have infected my family, friends and teachers. I was told when I was 14 that I had HIV and I was made to sign a waiver. We were told that if one person did not sign the waiver, there would be no compensation for anyone. We all signed the waiver, thinking that that was what we had to do and after that it came out that "Oh, by the way, you have hepatitis C as well." They knew fine that that

was the case. The test results show that we were tested en masse, without our consent; there was no pre or post-test counselling and the results were withheld for years. That is against General Medical Council guidelines.

John Farquhar Munro: Just so that the committee is aware of this, how has the treatment that you received and the condition that developed affected your life? Are you still able to work?

Andrew Gunn: I do my best. I struggle on, but I have HIV and hepatitis C. The side effects of the treatments are terrible; they are probably even worse than the conditions. I have listed the side effects of my pills so that members can see them. They include personality changes, insomnia, shortness of breath, muscle pain, abdominal pain, sickness, chills and fevers. The list is as long as my arm, and I have been through all of them. It even states on the box of the hepatitis C treatment that one of the side effects is suicidal tendencies; it hits you that hard.

Most of the kids that I grew up with at Yorkhill hospital have died—66 of us were treated there and only about 18 of us are left. I do my best and I work away, but it is a terrible thing that has happened and it could have been prevented. Even worse than that, we cannot get any closure because we have not been given truth or justice.

John Farquhar Munro: So it has created massive problems for you.

Andrew Gunn: Yes. I have two fatal illnesses. I will most likely die a slow, horrible, painful death, bleeding from every orifice and unable to be given pain-killers. That is as serious as it gets.

John Farquhar Munro: I note from your submission to the Public Petitions Committee that there is a degree of acceptance of the compensation package that has been proposed recently.

Andrew Gunn: It is financial assistance.

John Farquhar Munro: Why is it considered that somebody in Scotland who has hepatitis C is worth compensation of only £25,000, while our near neighbours in Ireland consider that people are worth at least 200,000 Irish pounds? Why is there such a massive difference?

Andrew Gunn: That baffles me as much as anyone. If the Government offers a larger amount, perhaps that would imply guilt and that is the very thing that the Government wants to avoid. We have had to fight tooth and nail to get this far; Westminster has now put the brakes on us being given the compensation by saying that it will take the money back through stopping our benefits.

Malcolm Chisholm has said that if he gives us compensation, the result will be fewer hospital

beds, no incubators for babies and so on. He has tried to use emotional blackmail like that on the public, but it is rubbish. I said to him that the money should not come from the NHS; it should come from the main Government fund. We are going to war with a tyrannical state that kills its own people and covers up the evidence. We are spending £2 billion on that, but we cannot give something to our own haemophiliacs who have been given death sentences. It is diabolical.

Dorothy-Grace Elder: As some members of the committee know, Mr Gunn was infected at the Royal hospital for sick children in Glasgow when he was 18 months old. The Minister for Health and Community Care has had to order hospitals, health boards and general practitioners to hand over the records of haemophiliacs. Have you received your records yet?

Andrew Gunn: No. I still have not had my complete medical records.

Dorothy-Grace Elder: I believe that nine years are missing.

Andrew Gunn: I have got a certain amount of my records back, but the crucial years in the early 1980s are still missing—that is when the American products were being used. That is strange, because Yorkhill is the one hospital that has admitted that it used those products, but there is still no record of it.

Dorothy-Grace Elder: So, as far as you know, the health boards have not complied with the orders of the Minister for Health and Community Care?

Andrew Gunn: Not in my case.

11:15

Dorothy-Grace Elder: I am old enough to have been a journalist when this scandal began. This involves very heavy politics, does it not? It stretches back to the United States of America and the decision that was made under the governorship of Bill Clinton in Arkansas. Later, one of the prisons had its licence to take blood withdrawn when it was found that it was taking blood from any prisoner, even those who were infected. Crooked blood firms were dealing between Nicaragua and America and so on to cash in on the discovery of factor VIII. Do you agree that the real problem is that Britain is linked to the covering up of the heavy politics of America?

Andrew Gunn: Yes. We are talking about huge multinational pharmaceutical companies. I know of death threats that have been made to one of our main campaigners in England via a doctor who, basically, had been bought. Many of the doctors had been given prizes and incentives to use the

products against their better judgment. It is a huge issue. Even our Haemophilia Society is funded by the Government and the blood companies and, while it must be seen to be supporting us, it is not really doing so.

The issue is far-reaching. Top politicians, high-ranking civil servants and a lot of other important people would be facing jail sentences if the truth came out. I am sure that they are keen to ensure that it does not.

Dorothy-Grace Elder: However, blood batches can be traced through the records. I understand that America still holds, in Florida, the records that show the links to the prisons and institutions that I was talking about. The blood was known as skid-row blood and it was brought into this country during Mrs Thatcher's reign because it seemed to be cheaper. Am I correct in thinking that, as early as 1974, the World Health Organisation warned that no country should buy blood from countries that had a high incidence of hepatitis A and B, which America did?

Andrew Gunn: That is right. In fact, earlier than that, one of the doctors who worked for the blood company, Armour, pioneered a heat treating process that would eliminate viruses in blood. However, he was sacked and silenced. People knew, right from the start, that the blood might carry viruses, even if they did not know what those viruses might be. We have been exposed to about 20 or 30 viruses—the whole range of hepatitises, which goes up to G or H, although C gets the most publicity—but it has all been kept quiet.

We are involved in litigation in America, where we are suing the blood companies.

Dorothy-Grace Elder: However, you must find that difficult because your records have been withheld from you in Scotland.

Andrew Gunn: That is right. The important documents, those with the batch numbers, have gone missing.

Dorothy-Grace Elder: Which health board is withholding your records?

Andrew Gunn: Yorkhill hospital is in Glasgow.

Dorothy-Grace Elder: That is the hospital in which you were infected as a child.

Andrew Gunn: Yes, but the situation is the same across the UK. No haemophiliac has been able to get their complete records.

Dorothy-Grace Elder: This issue makes me ashamed to have anything to do with politics. It makes me want to scrape politics off my shoe. Do you want a full public inquiry to be held? The Irish had a public inquiry, as well as paying out money to sufferers.

Andrew Gunn: Because of the situation that we are in—we all suffer illnesses to varying degrees and some have died—we need money first. The idea of giving us a second instalment when we are just about to kick the bucket makes no sense at all. People need the money now to enable them to look after their families if they are prevented from working because of illness. Personally, however, I want the truth more than I want the money.

The only way to have a sensible opinion on anything is to have the facts and the only way in which we will get the facts is through an independent public inquiry. Susan Deacon held an inquiry and we showed her the minutes of blood bank meetings that were leaked to us, but she did not want to know about them. We took them to the press and the BBC, but it turned out that her partner John Boothman, who is a BBC political editor, got programmes pulled. “Panorama” had produced a programme on the issues and “Frontline Scotland” had a programme that was researched and ready to go. When those programmes were just about to go ahead, they were pulled. Left, right and centre, we are being silenced. If those who are involved have nothing to hide, there is no problem. If we all have the truth, we can all go home.

Dr Ewing: What age were you when you signed the waiver?

Andrew Gunn: I was about 16—my parents might have signed it on my behalf.

Dr Ewing: The waiver was signed under pressure. You were told that if not everybody signed, no one would receive compensation.

Andrew Gunn: That is right.

Dr Ewing: You mentioned a figure of 66 people.

Andrew Gunn: The situation was UK-wide. I am not sure of the exact number, but I think that about 1,300 people throughout the UK contracted HIV.

Dr Ewing: You mentioned 66 people.

Andrew Gunn: Those 66 people were treated at Yorkhill hospital.

Dr Ewing: You said that Yorkhill has at least admitted fault.

Andrew Gunn: It admitted using American products. Every other hospital in Scotland has maintained that it never used American products. Now that we are trying to obtain our records, we are facing stiff opposition. A top professor in Scotland has admitted that hospitals all over Scotland used American products, so we have been lied to again.

Dr Ewing: You have described the most savagely unjust set of circumstances of which I have ever heard. The committee will discuss the

petition later, but I feel that a public inquiry is essential not only for you, but for all the other people.

Andrew Gunn: We held a protest the other week, which some of your good selves attended. However, even if 129 MSPs stood outside protesting, that would make no difference, because Westminster will not allow the truth to come out. That is a sweeping statement, but it is true. The work that the Scottish Parliament has done on the matter has been undermined by Westminster.

Dr Ewing: You said that the BBC pulled away from facing up to the issue.

Andrew Gunn: That is what I was told. Programmes were researched and scheduled to be shown, and one of our campaigners was to take part in “Question Time”, but when the question that she was to ask was found out, she was told that she was not allowed even to go in the building.

The Convener: I say for your safety and for committee members’ information that you should be careful about what you say about any individual, because we are not covered by parliamentary privilege, unlike Westminster.

Andrew Gunn: Fair enough. People can sue me, but I do not have a penny, so it makes no difference to me.

The Convener: You must be clear that we do not have the protection that the Westminster committees have.

Andrew Gunn: I am just telling you what I know to be true.

Dr Ewing: I am not making an allegation; I am asking questions. Was a series of “Panorama” to include a programme on the subject that did not happen?

Andrew Gunn: That is apparently the case. I do not have personal experience of the situation, but another campaigner has said that that is what happened.

Phil Gallie: Mr Gunn has made himself well known to everyone here. The amount of work that he has done is a credit to him, particularly given his illness, on which he commented. His petition contains two requests, but a third request is missing: a demand to the Scottish Executive—I cannot see how Westminster could stop the Executive from providing information—for the details of the faulty blood that came into the United Kingdom, for the dates from which it started to arrive and for the release to individuals of the information that they require, when that is possible. Would it suit you if the committee asked the Executive to provide that information, in addition to meeting the requests in the petition?

Andrew Gunn: Yes. We need all the help that we can get. Forgive me for being cynical, but I feel that the only way in which we will obtain the truth is with a public inquiry. We have tried every other route. Every political and legal avenue has been closed to us. We have all written hundreds of letters to every politician under the sun. It seems that every one of them has 101 reasons why they cannot help us or that they give us the runaround or some waffle. However, the more pressure, the better. That would be appreciated.

Phil Gallie: My suggestion would not knock point 2—a request for a public inquiry—off the petition.

Andrew Gunn: No. We want a public inquiry.

Phil Gallie: The proposal would be a forerunner to providing information, which should be supplied relatively early.

Andrew Gunn: We want a public inquiry—full stop.

Rhoda Grant: I have a couple of short questions. You have said that Westminster is withholding information. Has the matter been raised at Westminster for you?

Andrew Gunn: Yes. Charles Kennedy is making representations on my behalf. We have done everything possible. I am not exaggerating when I say that we have approached every committee, politician and group and explored every single legal and political avenue. However, they have all been closed to us. Furthermore, the pre-1982 records were shipped down to Westminster and no one has seen them since.

The lawyers who acted on our behalf during the HIV settlement knew that we had hepatitis C. It seems that everyone knew about the hepatitis C issue apart from the haemophiliacs. I do not see what more we can do. I am at my wits' end. In fact, I think that there should be a riot; after all, following political protocol and writing letters have availed us nothing. This is simply another avenue that I am trying to explore.

Rhoda Grant: You said that you received some of your medical records, but that some of them were withheld. What was the reason for not giving you your records in full?

Andrew Gunn: I was told that they did not have them and that they did not know where they were. It was thought that they might have been at another hospital. Actually, no reason or excuse was given. When the AIDS scandal broke, my doctor, Dr Willoughby, emigrated to Australia. Just before he left, he met all the parents of the children involved and asked them to hand in their log books of injections. The books contained information such as batch numbers, dates, bleeds and so on. Many parents did so, but some did not.

The whole thing is unbelievable—it is just a murderous cover-up.

The Convener: Thank you very much for your moving testimony. You are free to stay and listen to our discussion of how to proceed with the petition.

As committee members will see, the recommendation is straightforward enough. It is suggested that we refer the petition to the Health and Community Care Committee. I am aware that, although we have had previous petitions on this subject, they have focused almost exclusively on the question of compensation or ex gratia payments. I know that the Health and Community Care Committee's inquiry did not consider the option of a full public inquiry, and the expert panel that was set up examined only the question of the level of any compensation or ex gratia payments. Indeed, I know that the Health and Community Care Committee will respond to the minister's offer on ex gratia payments this afternoon and has had sight of the petition.

Unless any other member can think of a better way of dealing with the matter, the only course of action that we can take is to refer the petition formally to the Health and Community Care Committee and—because things will not happen before the end of the month—hope that it will be put on its successor committee's agenda and dealt with when that committee is formed immediately after the election.

11:30

Dr Ewing: I feel that that is not enough. I feel strongly that we could register our view that a public inquiry is the only answer. We could make that view known to the successor committee and we could make that view unanimous.

The Convener: In referring the petition, we make it clear that the Public Petitions Committee supports a full public and independent inquiry. I am happy to do that.

Dr Ewing: Apparently the previous inquiry did not address all the issues. The other question is whether we should make it known to the new committee that it is quite wrong that documents such as blood bank minutes were referred and taken away from Scotland.

The Convener: When we send the petition, we should include a copy of the *Official Report* so that all the evidence that we have heard this morning will be available to the Health and Community Care Committee. We will draw that committee's attention to the issues that have been raised in testimony.

Dr Ewing: Another question is the availability of medical records. Is that not a human rights issue?

The Convener: Yes, but all that will be in the testimony.

Dorothy-Grace Elder: I request that we also write to the trust that covers the Royal hospital for sick children in Glasgow and ask about Mr Gunn's records. It might be that those records are with a GP.

The Convener: We will support a full public inquiry that will look at that issue. We cannot do that for him.

Dorothy-Grace Elder: Yes, but he needs his records urgently. The Minister for Health and Community Care has already tried.

The Convener: Nothing will happen between now and the election.

Dorothy-Grace Elder: Even so, could we not just write a letter to that trust?

The Convener: The petition will be formally referred to the Health and Community Care Committee and it will be that committee's problem. You are a member of the Health and Community Care Committee and could suggest that it does that.

Dorothy-Grace Elder: Could we write to the Minister for Health and Community Care and tell him that we have had the report and that his order has not been carried out by that trust? Mr Gunn cannot sue properly in the United States. The man is cut off from everything.

The Convener: But we have to get the procedure right. If we do not get the procedure right, nothing will happen. The most important thing is to hold a public inquiry and the way to get that is to follow correct procedure. If we start to interfere with the procedure, that will prejudice the whole question. We have to get it right.

I do not mind sending the *Official Report* and our letter referring the petition to the Health and Community Care Committee to the Minister for Health and Community Care for his information and to draw his attention to the point that you have made. We can do that, but we really have to leave the matter to the Health and Community Care Committee now.

Dorothy-Grace Elder: What about Phil Gallie's point about the blood batches?

The Convener: I was just coming to that. I cannot remember the order of members because so many people were indicating. After Dorothy-Grace it was Phil Gallie, Rhoda Grant and Helen Eadie.

Phil Gallie: Dorothy-Grace should go first.

Dorothy-Grace Elder: I was just saying that we had not come to your very good point about the blood batches and requesting details.

Phil Gallie: I have no difficulty with referring the petition to the Health and Community Care Committee. That is the right way to do it if we are to get a public inquiry eventually.

However, the Health and Community Care Committee will not act between now and the beginning of May. There are questions that the Executive should be able to answer fairly quickly with respect to the contaminated blood, when it came into the UK, and when it was first suspected. I want to pick up the salient dates. It would bring some comfort to the haemophiliacs if there was some official recognition of that date trail. The committee could send a letter seeking that information and still be able to pass the petition on to the Health and Community Care Committee, even if it was next week.

The Convener: I know that we are all anxious to help, but if we do not get the procedure right then the inquiry will not happen. Because of time, the reality is that no committee will do anything between now and 31 March. The Executive could quite easily come back and say that it will take time to get the information. There is no great compulsion on the Executive.

The proper way is to get a full public and independent inquiry. If we can get that, all the issues that members have mentioned will be addressed and the truth will be got at. We cannot short-circuit that procedure. The committee must realise its limitations. We support the petition 100 per cent and will now refer it to the Health and Community Care Committee with our strongest recommendation that it support a full public inquiry. A public inquiry is the only means by which the issue will be satisfactorily brought out into the open.

Letters between us and Malcolm Chisholm will disappear into the ether by the end of this month when the election period starts. The timing is unfortunate, but we have to do this in the correct way to ensure that we have the best chance of achieving a public inquiry. We should stick to the procedures. By all means, we will copy everything to the minister in the meantime and if he wants to respond publicly, he can, but he should respond to the Health and Community Care Committee, not to us.

Phil Gallie: The one thing that this committee cannot do is control the Health and Community Care Committee. Is there any way in which the Public Petitions Committee can ask other committees to treat such issues within set time scales?

The Convener: Not once we officially refer a petition. We can make recommendations and urge committees to address them, but we do not have the power to instruct committees to deal with

petitions within certain time scales, because that is a matter for the committees. The Health and Community Care Committee is the committee that deals with the policy area of this petition.

Dr Ewing: We can highlight the urgency, because many people are dying.

The Convener: Absolutely. There is no problem with doing that.

Rhoda Grant: I agree that we have to follow the processes correctly to ensure that we get the outcome that we want. However, we should point out to the Health and Community Care Committee that we do not want the issue of medical records to be pulled in as part of a public inquiry, because that relates to malpractice now rather than something that happened historically. The Health and Community Care Committee needs to deal with medical records separately to ensure that people get access to their records now, because the reason why they are not getting access to their records has nothing to do with the public inquiry. If we leave that issue to become part of the public inquiry—and we are talking about years for a public inquiry—people will not be able to get the information that they need to take the legal steps that they need to take in the near future.

Dr Ewing: It is a separate question.

Rhoda Grant: Yes, it is a separate issue and it should be kept separate. Much pressure should be applied. It is not good enough that people are told that their records cannot be found.

The Convener: We can ask the Health and Community Care Committee to deal with that issue separately from consideration of the public inquiry after the election.

Helen Eadie: According to newspaper reports, a committee at Westminster is also trying to grapple with the issue. It is examining the disagreement between the health minister and the pensions minister. In that case, is it worth while sending the documentation that we have received from the petitioner, together with the *Official Report* of this meeting, down to Westminster?

The Minister for Health and Community Care obviously agrees in principle that payment should be made to the petitioners. As I understand it, according to the newspaper reports the issue is the extent of the payments. Across Europe and in Japan—according to the petitioner—it has been agreed that compensation should be paid. The whole debate is focused on the level of compensation that should be paid to the victims. I would appreciate it if the documentation could be sent to the Westminster committee that resolves disputes between Scotland and the UK.

The Convener: We can do that for information.

Dorothy-Grace Elder: Would you also consider making a request for a public inquiry to one of the two justice committees? You and I are the only Public Petitions Committee members on the Health and Community Care Committee, and you will recall that the Health and Community Care Committee did not go down the public inquiry route purely because of time. We all thought that it was right to go down the public inquiry route, but we knew how long it would take, so we tried to go for compensation. The Health and Community Care Committee might therefore be a wee bit confused if it now gets a request for a public inquiry. We have got to the stage where a paltry offer has been made that might be clawed back. However, it was due only to the Health and Community Care Committee that an offer was made. Could you refer the petition to one of the justice committees?

The Convener: We cannot refer it to two committees; we can refer it only to one.

Dorothy-Grace Elder: Can we not? I thought that we could send a copy.

The Convener: We could send a copy to a justice committee for information, but the Health and Community Care Committee has dealt with this issue throughout this session, and is the natural committee to deal with it. We can ask the Health and Community Care Committee if it wishes to consult a justice committee about any legal questions, but there has to be one lead committee, and I suggest that the Health and Community Care Committee is that committee.

John Farquhar Munro: Like most of the committee, I support the concept of a public inquiry. The sooner that we are able to initiate that process, the better. The offer of compensation shows a degree of acceptance that malpractice has happened. My fear is that, if we agree to a public inquiry, it might be decided not to pay the compensation until the outcome of the inquiry is known. That would be a retrograde step. I hope that the compensation that has been offered at this stage will not be dependent on the outcome of an inquiry. As an interim measure, that compensation should be paid.

The Convener: In his dealings with the Health and Community Care Committee, the minister has been very careful not to use the word “compensation” because the national health service refuses to accept any liability at all. It is making an *ex gratia* payment for suffering, so it should not be compromised by the fact that we are now calling for a full public inquiry into the matter. The NHS has never accepted liability.

John Farquhar Munro: I am not concerned what title the NHS gives the sum of money as long as it is paid.

The Convener: We could also make it clear to the Health and Community Care Committee when we refer the petition to it that this committee's view is that the payments should go ahead anyway on an interim basis. The inquiry is a separate issue.

Did members get all that? It is hard to revise or review everything. However, we have all the suggestions, which will all be put together. The committee's recommendation that a full public inquiry be carried out into the issue will be sent to the Health and Community Care Committee with a request for that committee to support the recommendation and make arrangements for such a public inquiry to take place.

Is that agreed?

Members indicated agreement.

The Convener: We have had a guest this morning who is just about to leave. He is the right hon Professor Gilbert Bukenya, the Minister in Charge of the Presidency, from Uganda, who is visiting the Parliament today and has sat in for the past half-hour to listen to our discussions. *[Applause.]*

You are very welcome. I am sorry that you have to leave.

Pharmacy (Control of Entry Regulations) (PE613 and PE614)

The Convener: The next petition, PE613, is on the subject of the Office of Fair Trading's recommendations on the control of entry into pharmacy. In fact, there are two petitions—PE613 and PE614—on the same subject. The principal petitioner for PE613, Mr Andrew Hughes, is here to speak to the petition.

Andrew Hughes: I thank the convener for allowing me the opportunity to address the committee in support of my petition. As a pharmacist with over 30 years' experience in community pharmacy and as the owner of two independent family pharmacies, I felt that I should petition the committee in response to the OFT's report "The control of entry and retail pharmacy services in the UK". I point out that I am not an official lobbyist from any group. We lodged a personal petition that was supported by our patients. I am just a concerned pharmacist, not part of the legal process.

In 1987, the Government introduced control of entry regulations for pharmacies in the United Kingdom. That was to provide a rational distribution of pharmacies in rural and urban areas and to avoid the counterproductive clustering of a number of pharmacies around GPs' surgeries. At present, all applicants for entry to the pharmaceutical list have to convince health boards that the proposed pharmacy is necessary or

desirable in order to secure adequate provision and distribution of pharmaceutical services in the neighbourhood.

Over the past 15 years, that system has worked well. The stability has produced a confidence that has encouraged pharmacists to provide a range of additional services in conjunction with local health boards. We have invested in upgrading our premises, adding consultation areas, training staff and continuing to seek ways to improve our service to the community. In fact, in line with the Scottish Executive's vision in "The Right Medicine: A Strategy for Pharmaceutical Care in Scotland", those initiatives have included palliative care schemes, care for the elderly, methadone supervision, non-smoking advice, repeat prescription services, a delivery service to housebound patients, domiciliary oxygen supply and helping with residential homes. Many other services would follow with the support of local health boards.

Those services rely on a close relationship between the pharmacist and his or her patients, which can be fostered best in local, community pharmacies, as we have at present. If deregulation comes about, as recommended in the OFT report, we will return to the free-for-all in which there was no stability in pharmacy provision. Most important, it is likely that supermarkets would open pharmacies on their premises. Small pharmacies that are situated in urban and rural communities and that serve young and old alike would become less viable and in many cases would close.

11:45

If the Scottish Executive accepts the OFT recommendations, the improvements and advances in pharmacy provision that have taken place in Scotland over the past few years will be damaged irreparably. Pharmacists and their staff throughout Scotland have been amazed by the support that the public have given to local community pharmacies by signing petitions that reject the OFT proposals. In our pharmacies, over a 10-day period our petition received about 1,300 signatures. Since we submitted the petition, it has received a further 500 signatures.

I have received support from my MSPs Annabel Goldie and Trish Godman, who has been particularly helpful. I ask members to consider my comments. I hope that they will support the many community pharmacies and patients in Scotland who are united in opposing the OFT recommendations.

The Convener: Although there are only two petitions on this issue before the committee, we have received petitions from all over Scotland—especially from pharmacies—that support the line that is set out in PE613 and PE614.

Dr Ewing: I am totally opposed to supermarkets trying to pretend that they are the same as pharmacists. I would like to illustrate what I mean. As members probably know, my husband was ill in the last period of his life. I collected pills for him regularly. Because of the demands of my life, once or twice I was unable to get to a pharmacy before closing time and resorted to using a supermarket that is aiming to be a pharmacist. Eventually I found a way round that and stopped using supermarket pharmacies, but whenever I did I received only half of the prescription. That dodge was intended to make me return to the shop the next day. If it had happened only once, I would not have been suspicious, but it happened every time. That is not good for people who are harassed and worried about illness. I have always found that a pharmacist affects health and confidence, because people feel that he is a friend. A supermarket can never provide that support.

I am totally opposed to what is being proposed. When a profession is working well and is respected, we should not fix it.

Andrew Hughes: I endorse completely those comments. We have a good relationship with patients generally. I said that I was amazed by the support that we had received. Of 1,300 people, perhaps three said that they would not sign the petition. They may have said that because they do not sign petitions or because they work in supermarkets.

I have not had this experience personally, but I know that many young pharmacists who work in supermarkets work shifts. Because there is no continuity in the pharmacist on duty, supermarket pharmacists do not have the same rapport with patients that other pharmacists have. I am sure that some very good pharmacists work in supermarkets, but I am told that the turnover of supermarket pharmacists is fairly quick.

Phil Gallie: How important to pharmacists and patients is head-to-head contact between pharmacists and patients?

Andrew Hughes: We have medication records for most of our patients. If a patient comes in to buy a Lemsip—which they can buy off a supermarket shelf, because it is an over-the-counter product—we have access to their records. If there is a decongestant in the Lemsip that interacts with tablets for high blood pressure, we can say, “Mrs Smith, you should not take that.” Similarly, we can indicate that there is paracetamol in the Lemsip and ask the patient whether they are taking other products that contain paracetamol.

If I had my way, medicines would be sold only in pharmacies. Unfortunately, their distribution is determined by manufacturers. Manufacturers

apply for licences for general sales list medicines. We sell general sales list and pharmacy-only medicines. Pharmacy-only medicines can be sold only when a pharmacist is on duty or in a pharmacy.

Phil Gallie: The geography of Scotland is such that many villages do not have supermarkets, although many people use them extensively. How many small pharmacies in rural communities would close if supermarkets were given blanket access under the OFT recommendations?

Andrew Hughes: I could not say, but there is a scheme to support small pharmacies in rural areas. For example, if the supermarket were 10 miles away and some of the many people who travel by car start to use it, even in a small way, small urban and rural pharmacies become less viable. Once pharmacies lose their viability, can pharmacists afford to open for as long as they used to or afford to deliver prescriptions to housebound people? I have been in the profession for over 30 years and it is changing. It has changed in the past 15 years. In fact, those changes have become more rapid recently, and we are looking forward to them. My daughter is a pharmacist in our business and she is looking forward to becoming more involved with those changes.

Returning to Mr Gallie’s point about closure, the OFT said in its report that for every supermarket pharmacy that opens, it expects two pharmacies in the surrounding area to close. That defeats the idea of distribution and access to pharmacies.

Phil Gallie: When you say that it completely cuts across that idea, would it not also totally undermine present moves in the NHS to encourage more contact between patients and pharmacists, rather than filling up doctors’ surgeries?

Andrew Hughes: Yes.

Dorothy-Grace Elder: You are perhaps aware that in the 20 years up to 1990 approximately 50,000 small shops closed in Britain, some of which were pharmacies. I do not know whether a study has been done since. However, those closures were largely due to supermarkets virtually eating whole high streets. If you cast your mind back 10, 20 years or whatever, how much of your business do you reckon supermarkets have already consumed? We know that they sell masses of make-up, toiletries, toilet paper, and cleaning materials—you name it. How much of the easy stuff do you reckon has already been taken from your pharmaceutical business?

Andrew Hughes: Supermarkets are easy. We all use supermarkets. We are all busy people in a hurry, so we will take our trolleys down the supermarket aisle and buy our toothpaste,

shampoo or whatever. I could not quantify how much has been taken from my business. However, we pharmacists are a resilient lot. If something goes, we will replace it with something else. We have been going to the continent for years and have seen that pharmacies used to be much more professional than we were.

Dorothy-Grace Elder: Pharmacists have lost a lot of the very easy trade, which the supermarkets take. You are left with the dispensing, which is the hard stuff.

Andrew Hughes: That is right. However, 80 per cent of our turnover is NHS work. We cannot make it any easier because the Government checks discounts and claws back money if it thinks that pharmacies have made any extra money out of that work. Therefore 20 per cent of turnover is over the counter, and probably only 5 per cent of that is over-the-counter medicines. Therefore the OFT has looked at pharmacies as a whole, but it should be looking at the 5 per cent sales of over-the-counter medicine. It has said that those medicines will become cheaper if they are sold in supermarkets because of the competition. I suggest that the range of medicines that would be available in supermarkets would be much smaller than is currently in pharmacies.

Supermarkets may well sell some goods at a discount, but they sell loss leaders in bread or toothpaste anyway. It is easy for larger organisations to cut prices to get the business. When the business is theirs, they do not have competition, and prices start to rise.

To return to the price of medicines, there are proprietary medicines, such as Benylin products, but pharmacies have own-brand goods that are a fraction of a price of those over-the-counter proprietary medicines. If someone comes in to a pharmacy and asks for a high-priced branded paracetamol product, we will offer them a paracetamol product for 55p. We have been doing that for a long time, and will continue to do it, but we would hope for some support from you.

Dorothy-Grace Elder: You will perhaps have heard about last week's meeting of the Health and Community Care Committee, at which the officials from the office of unfair trading—as I would call it in this instance—received a fair bruising from that committee's members. In fact, I would say that they needed some of your sticking plasters at the end of the day, because we were unanimously tough in response to what they are doing. The great mystery remains, however: the system wasn't broke, the public did not ask anybody to fix anything, so where on earth did the proposal originate?

Andrew Hughes: I suggest that it came from large organisations that have lots of money to

spend and have lots of professional people lobbying for them.

Dorothy-Grace Elder: So did the idea come from supermarkets and big business?

Andrew Hughes: Yes.

The town where I work has three pharmacies. We are all very friendly, although we are competitors—we are all individual businesses. We are members of the Royal Pharmaceutical Society of Great Britain. Many such pharmacies are also part of the National Pharmaceutical Association. We do not come together to lobby all the time, but there have been things that have—

Dorothy-Grace Elder: So the proposal is the result of big business pressure on the Office of Fair Trading, and perhaps also on some politicians, in connection with supermarkets and one or two names—

Andrew Hughes: I cannot possibly say that—

Phil Gallie: Can I cut in at this point? The proposal probably stems from European regulation and from what is considered to be fair trading in the European context.

Dr Ewing: No—

The Convener: I remind members that we are questioning the witness. We all have our own political beliefs, and we can argue over the rationale behind the decisions that have been taken, but we are trying to help the petitioner and to ask questions. Do you have any other questions, Dorothy? We have a big agenda and we have already been here for two hours.

Dorothy-Grace Elder: No. Thank you very much, Mr Hughes.

Helen Eadie: You might have answered some of my questions in response to Dorothy-Grace Elder. I, too, have received many letters from pharmacies in my area. A number of villages in my constituency do not have a pharmacy and I am constantly trying to address that issue. Could you expand on the answer that you gave to Dorothy-Grace Elder about how you think the current agenda arose? You have suggested that it could be because of the actions of big business. Has it come about for other reasons? What does the OFT report say? I have not had a chance to read it yet. What is the rationale behind it?

Andrew Hughes: As Dorothy-Grace Elder suggested, if it ain't broke, why try to fix it? I have no idea. I have not previously been involved in anything to do with the matter—

Helen Eadie: Have you read the report?

Andrew Hughes: I have not read it in full, although I have read extracts.

Helen Eadie: Is there in the document any rationale for the proposal?

Andrew Hughes: I cannot see that there is in the document any rationale for the proposal, aside from the fact that someone somewhere, or some large supermarket groups somewhere—I could name them, although I do not suppose that that is important—have been building up a pharmacy profile. The entry qualification is simple at the moment; it need only be shown that the need or desire for a pharmacy exists. I have been on both sides of the issue in the past: I opened my business before the contract changed and I then bought a pharmacy at the going rate and paid for it over a long period of time.

I recently applied to a health board for a contract in a place where I thought there was a need for a pharmacy. I went through the process of appearing before the health board's committee, which listened to my argument. I also listened to the questions that were asked of me and, as things turned out, that committee decided that there was no need for a pharmacy where I wanted one. I accepted that decision. I had the opportunity to appeal, but I thought that the point had been made. If there was no need for the pharmacy, there was no need for me to spend more time and effort on it.

12:00

Helen Eadie: On that question, I used to be a member of a health board committee that issued permissions to pharmacists to set up pharmacies and I remember that one of the health board's criteria was the distance between pharmacies; the proximity of one pharmacy to another was often the deciding factor. If a Tesco's sits right next door to a Co-op, who would regulate which supermarket would get the right to prescribe? Would the health board regulate that?

Andrew Hughes: If the OFT recommendations were implemented, a major supermarket could set up next door to me. I have been on site for 16 years—I have built up a lot of business in the area and I have loads of patients. If the proposal goes ahead, a supermarket could and probably would open a pharmacy and the chances are that my business would be halved overnight. I would like to think that that would not happen, but it could. A supermarket could quite easily wipe me out. I might eventually have to close. The patients that have come to me over the years would lose me as a pharmacist. I would not sell up and the supermarket and I would both have contracts, which would cost the health board more money because there would be two pharmacies where previously there had been only one.

Helen Eadie: Would there be no role for the committees of NHS boards in awarding the rights to pharmacies?

Andrew Hughes: It appears that there would not.

The Convener: The OFT proposal would leave it purely to the market to decide where people could collect their pharmaceutical products.

Dr Ewing: I do not think that we can blame the EU for the problem. During my sojourn in France, Germany and Belgium—where I spent a lot of my time—there were no such things as pharmacies in supermarkets. After all, Andrew Hughes's profession is one that is recognised by the other chemists of all the other EU countries. That recognition took years to establish and it is in pharmacists' interest to protect it.

Helen Eadie: Can I ask Winnie Ewing a question?

The Convener: We are supposed to be questioning the witness. We will discuss the issue later, when we can come to your question. If there are no further questions to the petitioner, I thank Andrew Hughes for attending. We now move on to discussion of what action to take on the petition.

The Office of Fair Trading's recommendations are merely that—recommendations. The UK Department of Trade and Industry is trying to co-ordinate responses to the recommendations from throughout the UK, but the decision rests with Scottish ministers. The Health and Community Care Committee has already taken up the issue and has had a meeting that was attended by the Deputy Minister for Health and Community Care. As Dorothy-Grace Elder said, that committee also questioned representatives of the Office of Fair Trading last week and will produce a report. The petitions have been shown to the clerks of the Health and Community Care Committee, so I suggest that the petitions be sent directly to that committee to help it finalise its response to the recommendations.

Helen Eadie: Do I see the hand of the World Trade Organisation's general agreement on trade in services in this? GATS is about further liberalisation of services and, as we all know, the DTI currently has a consultation paper out on that. Can the committee write to the DTI to ask whether the OFT proposals are part of that wider liberalisation process for trade in services? The DTI should be asked to note the committee's reservations about any possible liberalisation of health services.

I know that the minister announced recently that health services will not be offered up for liberalisation under GATS. I am delighted about that, although the newspapers here in Scotland have not reported it. However, the OFT recommendation could be a back-door way of trying to offer up some aspects of health services. The committee ought to feed into the DTI

consultation paper our view that we are opposed to this kind of liberalisation, which would fundamentally affect health services.

The Convener: I agree with that, but if we refer the petitions formally to the Health and Community Care Committee, they will become that committee's property. We could suggest to the Health and Community Care Committee that it should make such an approach to the DTI.

Helen Eadie: Would that stop us from writing a letter to the DTI to make our views known?

The Convener: Yes. We exist to ensure that petitions are given the correct and proper response; we do not have any policy responsibility in other areas. When we refer a petition formally, it is for the policy committee to which it is referred to pursue it. We will recommend to the Health and Community Care Committee that it should write to the DTI.

Helen Eadie: The only problem is that, as you rightly point out, committees will not be able to deal with any business until June at the earliest. Given that it is unlikely that a committee will conduct a detailed investigation then, the deadline for the consultation on GATS, which is in the summer, will be past. We must be mindful of that if the Parliament is to offer input to that consultation.

The Convener: The petition is not concerned directly with GATS, but with the Office of Fair Trading's recommendations to remove the control of entry regulations.

Helen Eadie: Yes, but the consultation will have an impact.

The Convener: I know that, but other committees in the Parliament are addressing those issues. We can refer the petitions to the Health and Community Care Committee, draw its attention to the consultation, and hope that it will address the matter in the future.

Helen Eadie: But the Health and Community Care Committee will not be able to do that timeously.

The Convener: The petition does not ask us to respond to the GATS consultation. You may want to respond to it—you can petition the Parliament on that.

Helen Eadie: With respect, that misses the point. Chemists are an aspect of the health service and the DTI's consultation impacts on them. Surely, the committee has a responsibility at least to write to the DTI saying that there is an issue and that we are concerned that the Parliament's other committees will not be able to respond timeously to the consultation. Does that present a problem?

The Convener: If we do that, we cannot refer the matter to the Health and Community Care

Committee, which is dealing with the issue this afternoon and which will be returning to it in the near future. The petitions would be held up in this committee while we write about the GATS consultation, so they would not form part of the Health and Community Care Committee's consideration. I do not think that that is a good idea, although other members might.

Helen Eadie: We have written such letters for information.

The Convener: Such a letter would mean that we could not refer the petitions to the Health and Community Care Committee.

Helen Eadie: In the past, we have referred petitions to the Health and Community Care Committee, but written for information in relation to concerns that we had. We did it a few moments ago when we referred a petition to another committee, but also to the Westminster committee that is dealing with the issue. The DTI is dealing with the issue, as is the Health and Community Care Committee.

The Convener: Why should we write to the DTI if we have already officially referred the petitions to the Health and Community Care Committee, which is dealing with the matter?

Helen Eadie: We should do so because of the time scale.

The Convener: We do not have any further role in the matter.

Rhoda Grant: I have a helpful suggestion. Perhaps we could send a copy of the *Official Report* of the meeting to the DTI and draw its attention to Helen Eadie's comments. We should also refer the matter to the Health and Community Care Committee.

The Convener: Yes. We can do that and draw the matter to the Health and Community Care Committee's attention. People must understand that the committee does not exist outwith dealing with petitions. We cannot take stances in relation to policy issues, which are a matter for the policy committees to which we refer the petitions. We can make recommendations, but we cannot run with issues, unless we get new powers in the new Parliament. I hope that we will get those powers in the near future, but we do not have them at the moment.

Helen Eadie: Convener, you know me; I respect you all the time, but I am concerned about the timing. I respect wholly the committee's view and I would not normally be so persistent and tenacious but, because of the timing, there is a problem.

The Convener: Do you accept Rhoda Grant's suggestion?

Helen Eadie: Yes.

The Convener: That is fine.

Dorothy-Grace Elder: Helen Eadie has pinpointed future dangers. The Health and Community Care Committee has dealt exclusively with chemists but, as Helen said, the measure could be the first step in a back-door approach, which would be cause for concern. If we dive in now and get a response from the DTI, we might stop that.

The Convener: An earlier petition from the World Development Movement was specifically about GATS and the opening up of health services to competition. That petition went to the Health and Community Care Committee, which dealt with it. The petitioners are now satisfied that the petition was successful because the DTI's and the UK Government's initial response was to back away from opening up health and education services to competition. The Government might come back again on that issue but, for the moment, it has backed off. The World Development Movement wrote to the Health and Community Care Committee to say that it was satisfied that there was no further need to pursue the matter because it was happy with the result of the first round of negotiations.

Phil Gallie: If the Health and Community Care Committee gets the petition, it will deal with it now and in line with the consultation requirements.

The Convener: The Health and Community Care Committee is considering a draft response this afternoon.

Phil Gallie: Will it consider the petition with that draft response?

The Convener: Members of that committee have copies of the petition, but we must refer it to them officially so that they can consider it. Is that agreed?

Members indicated agreement.

Legal Aid Certificates (PE610)

The Convener: Petition PE610, from Mr James Duff, calls on Parliament to investigate the question of legal aid certificates being acquired by members of the Scottish legal profession in cases involving alleged malversation. This is the seventh petition that we have had from Mr Duff in relation to the sequestration of his firm, and substantial background information is available to members on request.

As members will see, Mr Duff is now calling for an independent Government body to be established to ensure that certificates for legal aid that are acquired by anyone through the Scottish legal profession are safeguarded. He is also calling for an inquiry into how legal aid certificates,

in the past and currently, can be granted to solicitors and disposed of by malversation through the court process.

Dr Ewing: What does malversation mean?

The Convener: I do not know.

Dr Ewing: It is a new word to me.

Phil Gallie: I checked it in the dictionary today. It means bad practice.

The Convener: Malpractice or bad practice, essentially.

Phil Gallie: Yes.

The Convener: Although we might sympathise with the petitioner's circumstances in being unable to access legal aid to follow his only option of pursuing the matter through the courts, we should be aware that Parliament is unable to intervene in an individual case. It appears that the petitioner's general concerns about the legal aid system are addressed in the Executive's recent package of reforms, in particular in relation to the introduction of a quality assurance scheme and reporting regime. The Executive has also pledged to monitor the system closely and carry out a thorough review after two years. On that basis, it is suggested that we agree to take no further action on the petition.

Phil Gallie: Mr Duff recognises that his grievances have been aired many times, but he makes one specific point about cases being prolonged. It seems to me that that is one point that could be taken out of this petition, and perhaps the Executive's law officers could comment on that.

Dr Ewing: I would like to make a remark about that. Prolonging the length of a case does not add a penny to the fee that is paid by the Scottish Legal Aid Board, from which payments must be justified on a time and line basis. There are very few exceptions to that. There might be exceptions in connection with legal advice in a package but, in a case such as Mr Duff's, every single hour that is spent must be justified to the Legal Aid Board and there must be a detailed account. For a lawyer to have a case sitting about on a desk because of laziness or for any other reason does not add a penny to the fee, although the petition implies that it does.

The Convener: The information on the reforms that are being carried out by the Executive addresses that point. There will be

"a block fee structure for work in the sheriff court, whereby solicitors will be required to report to the board when a particular procedural stage passes and in lengthy cases to submit a report every 12 months".

So lengthy cases are being considered.

Phil Gallie: I would like to ask Winnie Ewing what happens when a solicitor, under legal aid, goes to court and asks the sheriff to prolong the case because he is still looking for additional information. Is he paid for that time?

Dr Ewing: I think that he is paid for that, because it is a legitimate reason for prolonging the case. He might need to contact a witness who has suddenly disappeared, but he must still go to the court to keep himself in order.

Phil Gallie: From my limited involvement, I have found that that happens fairly regularly. That is the point that Mr Duff is making.

The Convener: Are you suggesting that we keep the petition alive?

Phil Gallie: I would like to query the point. I believe that there is an element of delay by solicitors, despite what Winnie Ewing said. We could simply send a letter to the Executive asking for comments on that.

John Farquhar Munro: The other point that Mr Duff raises is the fact that, after the date of issue of the certificate, it falls after a certain time in circulation. I do not know whether that is correct, but that seems to be Mr Duff's case. If a certificate has been in circulation for several years, it reaches a stage at which it is no longer valid.

The Convener: Either we take no further action on the petition or we follow Phil Gallie's suggestion and write to the Executive, asking it to comment on the allegation that some solicitors are spinning out cases to get more money.

Dr Ewing: This man has already petitioned us seven times. He has an obsession with lawyers and it is absolutely ridiculous that we are allowing his allegations to waste the Lord Advocate's time. He is a vexatious petitioner.

The Convener: Mr Duff certainly has received enormous attention from the committee in the past.

Phil Gallie: We are not allowed to look at individual cases. My comments are merely general, and are not about the specific case in question. I recognise that Mr Duff feels that he has a massive grievance; however, we cannot consider the specific issue that he has raised.

The Convener: Mr Duff knows that we cannot consider individual cases and therefore frames his individual grievance in all kinds of general ways.

Phil Gallie: That said, I have a little sympathy with this particular petition. I got the impression from a couple of cases in which I was involved that matters were being spun out. Although that might have been done for entirely different reasons than simply to ensure that more money was added to the fee, the reasons are still unjustified and, at the

end of the day, a solicitor was being paid extra money.

12:15

Dr Ewing: I do not understand those criticisms. Solicitors do not get paid extra money unless they are doing something specific.

Phil Gallie: They should in such cases go to the sheriff and ask for a delay.

Dr Ewing: A sheriff would not grant a delay unless the solicitor had justification for asking for one, or the sheriff was simply rotten.

The Convener: The briefing note to the petition refers to certain Executive reforms that mean that lengthy cases require to be reported on every 12 months. We should ask the Executive to expand on that, and in particular to address Phil Gallie's point that cases are being spun out for whatever reason. Are members agreed?

Dr Ewing: I do not agree.

The Convener: We can get more information from the Executive and the matter can be considered by our successor committee. Are members agreed?

Members indicated agreement.

Disciplined Fitness (PE612)

The Convener: The last of the new petitions is PE612, from Thomas Ross, which calls on the Scottish Parliament to ask the Executive to discuss and consider the effects of disciplined fitness and how it could result in improvements to children's psychological and physical health and their social and moral behaviour. In support of the petition, the petitioner has supplied letters from Jack McConnell MSP, who was at that time the minister with responsibility for education.

Members will notice that Mr McConnell's replies set out a series of activities that the Executive introduced and which he feels meet the petitioner's concerns. In particular, following a recommendation by the physical activity task force, the Executive established a physical education review group last September. It is suggested that the committee write to the Scottish Executive seeking its comments on the issues that are raised in the petition. We should also ask for an update on developments with the PE review group together with an indication of when that group is likely to report its findings. Given that it is expected to report shortly, it is suggested that a copy of the petition be passed directly to the group for it to take into consideration when it makes its final recommendations.

Are members agreed?

Members *indicated agreement.*

The Convener: Are members content to soldier on, or shall we take a break?

Dr Ewing: I have to go to another meeting for a short time.

The Convener: We will press on. We have quite a number of current petitions to get through.

Current Petitions

Rural Scotland (Suburbanisation) (PE495)

The Convener: The first current petition is PE495, from Ian Malcolm, on the suburbanisation of rural Scotland. The petition is based particularly on his experiences in Aberlady and with East Lothian Council in relation to a development by Cala Homes Ltd. We have dealt with the petition several times and have received responses from the Convention of Scottish Local Authorities, the Scottish Executive and the cross-party architecture and the built environment group of the Scottish Parliament.

At our previous meeting, the committee agreed to seek an update on the review of national planning policy guideline 3, together with further details of the emphasis that is likely to be given to housing design issues in any revised version of the guidelines. The Executive has responded very promptly to our request and has explained that Scottish planning policy guideline 3, entitled "Planning for Housing", and two related planning advice notes place a strong emphasis on promoting quality in the design of new housing.

The Executive also makes it clear that planning permission can be refused on design grounds alone and that it is also open to planning authorities to consult the Royal Fine Art Commission or any other body to assist them in reaching decisions. It further explains that over the next year it will consider how village design statements might be encouraged, possibly through a PAN, and that work on a revision of PAN 36, entitled "Housing in the Countryside" will also start this year.

In view of that on-going work in the development of planning guidance and advice to assist authorities in reaching planning decisions, it is suggested that we take no further action on the petition and that we pass copies of the latest Executive response to the clerk to the Transport and the Environment Committee and to the petitioner, for his information. Is that agreed?

Members: Agreed.

Scottish Transport Group Pension Funds (PE500)

The Convener: The next petition is PE500. We had expected to have Dennis Canavan here.

Dennis Canavan (Falkirk West): I am here.

The Convener: Sorry—Dennis Canavan is present. We have received apologies from Sylvia Jackson and an e-mail from Fergus Ewing, which I will read out later.

We have dealt with the issue of the Scottish Transport Group pension funds half a dozen times

at various meetings. The committee noted a response from Dennis Canavan, saying that a meeting in October 2002, which involved representatives of HM Treasury, two Westminster MPs and members of the Transport and General Workers Union, did not involve representatives of the Scottish Bus Group pensioners action group. The committee therefore agreed to request again that a meeting be held with a delegation of MSPs, members of the Scottish Bus Group pensioners action group and its financial advisor, Mr Derek Scott, given their real concerns about the handling of the matter. The Financial Secretary to the Treasury has now responded, saying that she is not prepared to hold such a meeting.

I invite Dennis Canavan to speak before committee members discuss the suggested action.

Dennis Canavan: The response of the Financial Secretary to the Treasury, Ruth Kelly, is very disappointing. I am not sure whether there is any merit in pursuing the matter with the Treasury now. The Treasury ministers appear to be absolutely intransigent in refusing to meet the pensioners and their representatives.

An important point still needs to be clarified. Although Treasury ministers are not accountable to us, Scottish Executive ministers are. It may still be worth pursuing the matter with them, even though we have now reached the 11th hour of the parliamentary session, as it were, with just over a week to go before dissolution. It might be worth asking Lewis Macdonald, the Deputy Minister for Enterprise, Transport and Lifelong Learning, whether he would agree to meet representatives of the pensioners and any interested members of the Parliament.

With your permission, convener, I will distribute the relevant correspondence for members to peruse. I have a copy for each member. You will see that there is a blatant contradiction, whereby the Treasury is apparently saying one thing and the Scottish Executive is saying something completely contrary. The papers that I have just distributed to members include a letter from the Chief Secretary to the Treasury, Paul Boateng, to Tom Clarke MP. I have highlighted the second last sentence of that letter, which says:

"the legal position was that the pension fund surplus should pass to the Scottish Executive in its entirety."

The other letter was written to John McAllion, the convener of this committee, by the Deputy Minister for Enterprise, Transport and Lifelong Learning, Lewis Macdonald. I have highlighted part of the second page, which appears to be a blatant contradiction of Paul Boateng's statement. Lewis Macdonald writes:

"The agreement with HM Treasury took account of the fact that the remaining balance, £50 million (net of tax),

would be remitted to the UK Exchequer as required under the 1989 Act."

As I said, the Treasury is saying one thing, while the Scottish Executive is saying something completely different. The pensioners and I are very grateful to the committee for the time that it has spent on this important issue, but I feel that we should now pursue the matter further by requesting a meeting with Lewis Macdonald.

The Convener: If members agree, I could write to Lewis Macdonald, asking that he agree to meet representatives of the pensioners and interested MSPs to discuss the correspondence that Dennis Canavan has made available. Is that agreed?

Members: Agreed.

The Convener: We received an e-mail from Fergus Ewing. I will read out the relevant part of it:

"When the Minister addressed the Committee on this issue he was asked by myself what would happen in the event that the total amount of the funds earmarked for distribution was not fully subscribed. What would happen to the remainder? He replied that it would be applied for the benefit of the identified applicants who were declared eligible to receive the ex gratia payments.

Would it be in order for the Committee to invite the Minister to clarify, now that the distribution scheme has been approved and has in part been implemented, that the remainder of the residue will be applied for the benefit of the identified applicants found eligible. Can that money be used in order to ensure that widows and other beneficiaries should receive the full amount of the payment rather than receive only half of the amount as most of them will do?"

However, the clerks have pointed out to me that Lewis Macdonald dealt with that issue in his letter to me of November last year, which stated:

"In making these payments Scottish Ministers are required to adopt a fair and reasonable approach to their distribution of the available surplus, and that is most readily done by following the rules of the STG pension schemes. Changing the basis for payment would move away from the established principle of utilising the rules of the schemes for payments and would have an effect of decreasing the final expected sums for the vast majority of recipients. Scottish Ministers believe that a departure from the basis of the distribution would increase the potential risk of overpayment and therefore of legal challenge. Scottish Ministers fully evaluated the matter recently when considering the amendment to the distribution criteria in relation to those widowed on or after 18 December 2000. Accordingly Scottish Ministers have decided that there will be no change to the basis for distribution for those widowed before 18 December 2000."

As the minister dealt with the point that Fergus Ewing wants us to raise with him, I do not know whether there is any point in us pursuing the issue further, because we will get the same answer.

Helen Eadie: Perhaps we should send a copy of that letter to Fergus Ewing and point out that the matter has been dealt with.

The Convener: Yes. Is it agreed to do that and to take up Dennis Canavan's suggestion of writing to Lewis Macdonald to ask for a meeting?

Members indicated agreement.

Dennis Canavan: Fergus Ewing raised a further point in the statement that he sent to me. It was a simple request. The first tranche of payments has been made, but a significant amount of money is unpaid, which means that secondary payments will be made to virtually everyone who received a first payment. Obviously, it would be an advantage for some of the pensioners if the second payment were made in the next tax year. Fergus Ewing has written to the Executive about that, although it is fairly obvious that the Executive will comply with the request because there are only two weeks left in this tax year. It would be of benefit to some of the pensioners if we ensured that the Executive postpones the payments until the next tax year.

The Convener: When we write to the minister asking for a meeting, we will make that point. We will also make it clear that we want the meeting with him to be held before the dissolution of the Parliament.

Dennis Canavan: Yes—I would like it to be held before Parliament is dissolved.

The Convener: Do members agree to those suggestions?

Members indicated agreement.

Early-years Education and Child Care (PE523)

The Convener: Petition PE523, which is from Carol Ball, calls for a national inquiry into early-years education and child care, with a view to producing a report and recommendations on the way forward. When we dealt with the petition previously, we asked the Executive for an update on the on-going discussions with employers and others on proposals for a sector skills council for the early-years work force. We have now received a response.

Members should note that, since last February, when we considered responses to the petition, the Executive and the National Training Organisation for Sport, Recreation and Allied Occupations—SPRITO—have undertaken a significant amount of work to try to increase the number of qualified workers in early-years education and child care and to promote career opportunities in the sector. The latest response from the Executive provides details of the discussions that are taking place at the UK level—in which the Executive is involved—to ensure that any sector skills council that covers the interests of the early-years and child care work force will reflect the increasingly integrated nature of children's services. The Executive believes that there is a danger that initiating a national inquiry, as requested by the petitioners, might delay rather than encourage policy developments in early-years education and would therefore be unhelpful.

The work that the Executive and other bodies are undertaking appears to represent progress in addressing the petitioners' concerns, but it is suggested that we should establish whether the petitioners are encouraged by the work that is being done. Our successor committee could then consider the petition in the new session.

Helen Eadie: I suggest that we follow the officials' recommendation and that we also consider seeking the views of Children in Scotland, which has expressed an interest in the matter. The successor committee should be allowed some time in the new session to monitor what takes place nationally. If the committee monitors the situation for four or five months, it would be able to get a better view of the progress that is being made.

12:30

The Convener: We have sought views on the petition from Children in Scotland, which the Executive has appointed to research gaps and overlaps in the framework, but there is no reason why we should not ask Children in Scotland to comment when we ask the petitioners whether they are happy. Is that agreed?

Members indicated agreement.

Autistic Spectrum Disorder (PE452) Psychiatric Services (PE538) Autism (Treatment) (PE577)

The Convener: Mr James Mackie submitted two petitions on autistic spectrum disorder and we have received the Executive's latest response to them. As those petitions are connected with PE577, which is also on ASD, I suggest that we deal with the three petitions together.

Petition PE577 is from Mr Steve Law, on behalf of Action Against Autism. We asked for and have received the Executive's response to the petition. The Executive does not support the proposal to establish an autism-specific facility, as it does not believe that a centralised facility would provide the best service for people throughout Scotland. It prefers a managed clinical network that would provide better multi-agency care and support that is appropriate to meet individual needs. However, the petitioner, who was supported by medical experts with vast experience of working with autism, made a strong presentation to the committee at its meeting on 14 January in support of a dedicated autism facility. It is suggested that linking PE577 with PE452 and PE538 would have merit, as it would allow the range of autism-related issues that has been raised to be considered further together. It is recommended that all the petitions be referred to the Health and Community

Care Committee's successor committee in the new session.

It is clear from the responses to Mr Mackie's closely related petitions that the Executive is undertaking a significant amount of work with a view to improving the diagnosis and treatment of people with ASD. Notably, the Executive has identified the need for improvements in diagnosis, joint working, training and research, although it cannot yet confirm how or within what time frame those priorities will be delivered. The Executive is also conducting research to identify the number of people with ASD and learning difficulties in secure settings.

The Executive does not think it appropriate to define ASD as a distinct category of mental disorder in the Mental Health (Care and Treatment) (Scotland) Bill, but it is intended that people within the range of ASDs should receive the protection that the bill affords when necessary.

If we put all the petitions together and refer them to the Health and Community Care Committee, its successor can deal with them in the new session. Is that agreed?

Phil Gallie: I agree. Has a consultation document been issued on special needs?

Rhoda Grant: There is an education consultation document.

Phil Gallie: I wonder whether that consultation relates to the petitions. I would not like the petitioners to miss the consultation.

The Convener: The petitions are health-service focused. Members might remember that three doctors gave evidence to us in the chamber on petition PE577. Their approach was orientated towards the health service, diagnosis and treatment.

Phil Gallie: Okay.

Psychiatric Drugs (Side Effects) (PE547)

Ritalin (Effects on Children) (PE548)

Clozapine (Safety Issues) (PE549)

The Convener: Petitions PE547, PE548 and PE549 are from Mr Mackie. They concern the use of psychiatric drugs and alternative treatments and of psychiatric drug treatment for attention deficit disorder, and call for an investigation into the use of Clozapine, which is a neuroleptic drug. We have received responses from the Scottish Executive, the Medicines Control Agency and the Committee on Safety of Medicines. We also received a brief response from the chairperson of Trust: A Carers Connection, who is concerned by the petitioner's comments about the use of Clozapine. She has direct experience of the benefits that the drug can

bring to patients and her view is that taking the drug off the market would have a significant adverse effect on users.

As members can see from the responses, the regulation and safety of medicines is a reserved matter and falls wholly within Westminster's remit, so it is suggested that we should agree to take no further action on the petitions, to copy the responses to the petitioner and to suggest that he might pursue the matter at Westminster via his local MP. Is that agreed?

Members indicated agreement.

Planning Process (PE554)

The Convener: Petition PE554 is from Mr Neil Henriksen and calls for improvements to the planning process. He wants the necessary steps to be taken to improve the planning process so that once a planning application has been refused and not appealed, or appealed and refused, no substantially similar planning application for the same site can be accepted unless a material change in circumstances takes place.

We have considered the petition at previous meetings. The last time that it was considered, we agreed to ask the Executive to provide details of the proposed time scale for its discussions with planning authorities before we agreed whether to take further action on the petition. The Executive confirmed that it issued a letter on 27 January to the Scottish Society of Directors of Planning, which was copied to the Convention of Scottish Local Authorities, in which it asked for the society's views on repeat planning applications. Responses have been requested by the end of this month, after which the Executive will decide how it intends to deal with the matter. It is to be welcomed that the letter to the society refers to the petition and it is encouraging that the Executive is taking such action as a direct result of the petition.

It is suggested that we agree to defer further action on the petition until that process has been completed and that we ask the Executive to report to the committee on how it intends to deal with the matter as soon as it can do so. We can also pass a copy of the latest Executive response to the clerk to the Transport and the Environment Committee for information only. It is nice to see a success. Is that agreed?

Members indicated agreement.

Scottish Law (Protection of Minors) (PE565)

The Convener: The next petition for consideration is PE565, from Miss Jacqueline Shields. The petition asks the Parliament to take necessary steps to provide a protective

mechanism to ensure that the welfare concerns of minors are paramount in Scottish law.

We sought the views of a range of different groups: the Scottish Executive, the Scottish Child Law Centre, the cross-party group in the Scottish Parliament on children and young people and the Scottish Alliance for Children's Rights. As members can see, responses from those organisations have now been received. The committee is reminded that the Parliament is unable to comment specifically on the circumstances of the petitioner's case, given that she is the child of parents who are currently engaged in litigation that involves parental rights and responsibilities in relation to her.

From the responses that we have received, it would appear that there is no particular call for a change in the law as it stands, which states that the welfare of a child should be paramount in all legal matters. However, the responses from the Scottish Child Law Centre, the Scottish Alliance for Children's Rights and the cross-party group make the point that the procedures that support children who are involved in civil law and other court proceedings are insufficient. It is claimed that there is a lack of public information to advise children and young people on their right to obtain independent legal representation in private family law cases. Concerns are also expressed about the fact that there are few accredited child law specialists and that such accreditation does not require training in child development or child psychology. Questions are also raised about the ability of children to obtain legal aid.

In the light of those comments, it is suggested that we agree to refer the petition in the new session to the successors of the justice committees, with a recommendation that the matters are given further consideration. Is that agreed?

Members *indicated agreement.*

Taxis (Use by Disabled People) (PE568)

The Convener: The next petition for consideration is from Mr Alan Rees and concerns the use of taxis by disabled people. We sought the views of the Executive, COSLA, VisitScotland and the Scottish Taxi Federation, responses from all of which have now been received.

The Executive makes it clear that taxi accessibility regulations are reserved and that the Department for Transport is not yet in a position to say when they will be introduced. Once they are commenced, the Executive will consult widely on the proposals with a view to introducing similar regulations in Scotland. The Executive also states that it has written on two occasions to local authorities to update them on the introduction of

the taxi provisions in the Disability Discrimination Act 1995. On each occasion, the opportunity was taken to encourage councils to improve the accessibility of taxis to those with disabilities in advance of any regulations being introduced. There are no immediate plans to send out a further letter, although the position will be kept under review. However, the action that has been taken appears to address the concerns that the petitioners have expressed.

Both the Executive and VisitScotland are against the introduction of a standard concessionary scheme and are of the view that the operation of such schemes should be a matter for each local authority. The Scottish Taxi Federation suggests that a standard scheme would place a significant financial burden on local authorities. The federation is also concerned about the lack of financial incentives available to taxi operators to convert existing vehicles or to purchase new wheelchair-accessible vehicles.

The Executive seems to be committed to the introduction of appropriate taxi accessibility regulations in Scotland. However, that may take several years, in view of the reserved nature of the regulations and the delay in their introduction by the Department for Transport. In the circumstances, members may consider that the Executive's proposals for progressing this issue are reasonable. They may also wish to agree to take no further action on the petition.

Alternatively, the committee may take the view that in the new session the Parliament should give further consideration to the issues raised, perhaps with a view to accelerating the process.

Helen Eadie: It would be a real shame if our successor committee did not reconsider the issue in the new session. This is the European year of disabled people. The fundamental point is that we are being told that it will cost money to give equal rights to people who have disabilities. We all know that that will cost money, but people with disabilities should be given equal rights. It should not be for local authorities to decide whether they want to give people with disabilities equal access rights. They should be required to respect the law, which calls for people to be given access to taxis.

I feel very strongly about the issue. We should seek the views of the Disability Rights Commission. This morning, we have heard that a variety of commissions exist to deal with equality issues. We ought to push this petition to the limit because people with disabilities are isolated and require to be given the opportunity to travel in the same way as everybody else. It will cost money—there is no escaping that—but local authorities should not be allowed off the hook because it will cost them money.

Rhoda Grant: I suggest that we pass the petition to the Transport and the Environment Committee and copy it to the Equal Opportunities Committee. There are problems not only with taxis but with many other transport modes. For example, there are buses that can be used by people in wheelchairs, but kerbs and so on need to be altered so that the system works. There should be a strategy to make transport—whether taxis or public transport—available to disabled people. If we send the petition to the Transport and the Environment Committee we will be making a statement that the matter should be considered not as different but as mainstream. Perhaps the Equal Opportunities Committee could keep a watching brief on what the Transport and the Environment Committee does with the petition.

Helen Eadie: I support that suggestion, but I would also ask the Transport and the Environment Committee to consider not only buses and taxis but access at railway stations. It is absurd that, at at least two railway stations in Fife, people have to take the long way—right round the Fife circle line—to be able to travel. If railway stations were accessible, people could take the short cut and go the direct way. Such situations are far too common throughout Scotland and have been mentioned in motion after motion and during members' business debates. It is time that someone gets a grip of the issue and says that something has to happen. As I said, this is the European year of disabled people and there is no reason not to do something. Rhoda Grant is right—sending the petition to the Transport and the Environment Committee would mainstream the issue. That is a good way forward.

The Convener: There are two alternatives. Whatever happens, we cannot do anything in this session. If we refer the petition to the Transport and the Environment Committee and the Equal Opportunities Committee, it will become the concern of their successors. We can pass the petition on to the successor committees after the election or we can seek the comments of the Disability Rights Commission and bring the petition back to this committee in the new session. Which way is best?

Helen Eadie: Just refer it and the committees can perhaps—

The Convener: Is the suggestion that we should just refer the petition to the successor to the Transport and the Environment Committee?

Members indicated agreement.

Robin Rigg Wind Farm (PE605)

The Convener: The final current petition is from George Makins, on behalf of the Auchencairn community council, calling for a public inquiry into the planning application for wind turbines. We

formally referred the petition to the Deputy Minister for Enterprise, Transport and Lifelong Learning, urging him to take it into consideration as part of the decision-making process. Unfortunately, he made a decision last Friday, after the papers were sent out: the wind turbines will go ahead, despite the petition. However, the deputy minister took the petition into consideration in the decision-making process. I suggest that since a decision has been made there is not much else that we can do.

Phil Gallie: I do not know—I think that we could reply to the minister. He said that the project is a forerunner to a number of other projects. We are talking about a major landmark. Local authorities on both sides of the Solway firth and everyone in the area were up in arms over the project. I cannot understand why the minister did not go for the public inquiry, as the petition asks. He has called in planning applications on other occasions. With such a major application, it would have been wise to have taken on board the impact that it will have on the area and the fact that such projects could spread throughout Scotland. If he does not call a public inquiry on this occasion, it is the death of any chance of anybody else, from anywhere else, having a public inquiry.

The Convener: We cannot get involved in individual planning applications. The minister announced last Friday that the decision is to approve the planning application. There is not a great deal that we can do about it. Political points can certainly be made at the minister's expense, with the forthcoming election—

Phil Gallie: I do not see it as a political point; I just feel that—

The Convener: The decision has been taken. It is too late now—that is the problem.

I am informed that other petitions that are currently with the committee deal with the general issues of wind farms and the Executive's strategy in relation to them. However, PE605 was specifically about the application to build 60 wind turbines at Robin rigg in the Solway firth. That decision has been taken and I do not think that there is anything that we can do about it now.

Phil Gallie: The petition called for a public inquiry.

The Convener: There will not be one now that the planning application has been granted. That is the problem. We can certainly raise the matter under one of the other petitions that deal with the general strategy on wind farms, such as whether there should be some kind of inquiry into them and so on. However, a decision has been taken on this matter and it cannot be overturned.

12:45

Meeting continued in private.

13:08

Meeting continued in public.

Convener's Report

The Convener: The only issue under this agenda item is to remind members to let the clerk to the committee know whether they are free to have lunch with our German visitors next week.

Meeting closed at 13:09.

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