

# **PUBLIC PETITIONS COMMITTEE**

Tuesday 25 March 2003  
(*Morning*)

Session 1

£5.00

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## PUBLIC PETITIONS COMMITTEE

7<sup>th</sup> Meeting 2003, Session 1

### CONVENER

\*Mr John McAllion (Dundee East) (Lab)

### DEPUTY CONVENER

\*Helen Eadie (Dunfermline East) (Lab)

### COMMITTEE MEMBERS

\*Dorothy-Grace Elder (Glasgow) (Ind)

\*Dr Winnie Ewing (Highlands and Islands) (SNP)

\*Phil Gallie (South of Scotland) (Con)

Rhoda Grant (Highlands and Islands) (Lab)

\*John Farquhar Munro (Ross, Skye and Inverness West)  
(LD)

### COMMITTEE SUBSTITUTES

Scott Barrie (Dunfermline West) (Lab)

Irene McGugan (North-East Scotland) (SNP)

Mrs Lyndsay McIntosh (Central Scotland) (Con)

\*attended

### THE FOLLOWING ALSO ATTENDED :

Dee Affleck (North East Eating Disorders Support  
(Scotland))

Peter Hodgson

Heather Morrison (North East Eating Disorders Support  
(Scotland))

Gráinne Smith (North East Eating Disorders Support  
(Scotland))

### CLERK TO THE COMMITTEE

Steve Farrell

### ASSISTANT CLERK

Joanne Clinton

### LOCATION

Committee Room 1



## Scottish Parliament

### Public Petitions Committee

*Tuesday 25 March 2003*

*(Morning)*

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

**The Convener (Mr John McAllion):** I welcome everyone to the seventh meeting this year of the Public Petitions Committee. Indeed, this is our final meeting in the first-ever elected Scottish Parliament.

I extend a warm welcome to a delegation from the petitions committee of the German Bundestag, which is led by Herr Hagemann. You are very welcome, and I hope that you enjoy your visit to Scotland. We enjoyed a good visit to Germany back in 2001, so this is, in a sense, a return visit for the Bundestag committee. I know that its members have already met to discuss electronic petitioning. As I said, they are very welcome, and I hope that they have a successful stay. We look forward to meeting them later today. [*Applause.*]

We have received apologies from Rhoda Grant, but all other committee members are present.

### Item in Private

**The Convener:** Before we begin consideration of petitions, I seek the committee's agreement that we take item 3, on our draft report on petition PE327, from the Blairingone and Saline Action Group, in private. Is that agreed?

**Phil Gallie (South of Scotland) (Con):** We have always been critical of such items being taken in private. Given that we considered our draft report in private, would not there be some advantage in our dealing with the issues in public today?

**The Convener:** In fact, we dealt with the draft report in public last time, not in private, and we have learned from our mistake. Several people who were affected by the draft report were in the room, and they were upset that certain views were expressed, to which they were unable to respond, as it was not the committee's final report. Information was getting out into the public domain without it being stressed that what we were discussing was not the final report, as approved by the committee. We have learned the lesson and perhaps we should wait until the committee agrees its final report before going into the public domain with it.

**Phil Gallie:** Okay. If Dorothy-Grace Elder is happy with that, I am happy with it too.

**Dorothy-Grace Elder (Glasgow) (Ind):** We might want to make changes. Last time, we discussed the report in public in the interests of openness, but the press and others simply could not understand the fragments that were coming out. Some new information for our current report on Blairingone has come in even overnight.

**The Convener:** When the final report is agreed, it will be launched publicly by the committee at a press conference.

**Dorothy-Grace Elder:** Perhaps the German delegation from our sister parliament might be able to remain for that item.

**The Convener:** I think that they will be gone by then. They have a busy agenda this morning and will not be here for the whole meeting.

**Phil Gallie:** We are right up against the deadline for the ending of the parliamentary session and the committee, but the person who knows most about the situation at Blairingone—the person who has done virtually all the work on the report—is Dorothy-Grace Elder. I am told that, sadly, Dorothy-Grace will not be standing for re-election, so she will not be here when the committee reports. Could she be invited back to participate in the launch of our report?

**The Convener:** We intend to launch our final report this week, before Dorothy-Grace steps down. She will still be a member of the Scottish Parliament and a member of the Public Petitions Committee.

**Phil Gallie:** That is great. I am amazed at the speed of the response.

**Dorothy-Grace Elder:** Thank you very much, Phil, for the kind thought. Do not worry. If anything affects Blairingone in the future, I will be back.

**The Convener:** I remind members that we have a full agenda this morning, so they should try to make their contributions brief. It has taken us about five minutes to get beyond the first item and the welcomes.

## New Petitions

### Eating Disorders (Treatment) (PE609)

**The Convener:** The first new petition is PE609, from Mrs Gráinne Smith, on behalf of North East Eating Disorders Support (Scotland) and the Scottish Eating Disorders Interest Group. Dee Affleck and Heather Marrison are here to support her. You have three minutes to make an opening statement, after which members of the committee will ask questions.

**Gráinne Smith (North East Eating Disorders Support (Scotland)):** Nine years ago, my daughter came home from an abusive marriage and developed anorexia, yet she did not recognise how ill she was. It was the beginning of a living nightmare. Anorexia nervosa is an eating disorder. It is a serious illness with terrible physical and emotional effects and a very high death rate from mineral deficiencies, depression and suicide. Up to 20 per cent of sufferers die.

Anorexia nervosa, bulimia and other eating disorders can affect people of any age, but they usually start in adolescence as a response to stress caused by, for instance, bullying, moving school or family problems. The common factor is image problems leading to dieting, added to a genetic vulnerability. About 10 per cent of sufferers are male. In every secondary school, several pupils will be affected by eating disorders. The Eating Disorders Association—a national charity—estimates that every general practitioner will have, on average, one or two people with anorexia and 18 to 20 people with bulimia in their practice, and that between 5 and 10 per cent of young women attending surgery will have eating disorders.

Despite those statistics, GPs, teachers, social workers, nurses and others who meet people in eating distress in the course of their work receive no special training. Neither do general psychiatrists, who are expected to treat eating disorders. In Scotland, there are no specialist adult national health service beds for eating disorders. Patients are sent to general wards anywhere where there is a space, which, in itself, can lead to tragedy.

10:15

Eating disorders such as anorexia and bulimia affect the whole family, not just the sufferers. Many carers, like me, give up work to try to help the sufferers. Some families disintegrate under the stress, which creates social problems. Eating disorders are like any other addictive or compulsive behaviour, such as alcoholism. The sooner that the problems are recognised and addressed, the better. Yet, throughout Scotland,

waiting lists are growing and a wait of six months is common. In a case of anorexia, six months can mean the difference between life and death. There is now strong evidence from around the world—including that from Professor Michael Scholtz, of Germany, as well as that from the work that has been done in Britain—that early intervention, family support and specialist training for professionals are the best ways in which to beat these devastating illnesses and prevent them from becoming life threatening or chronic. The horrific statistics could be much reduced with proper early treatment.

Scotland cannot afford to lose so many young people with potential talents and abilities that are lost to the community. Nor can we afford to lose the talents of carers who have to leave work—not to mention losing their taxpaying possibilities. Apart from the personal consequences for individuals and families, it is a false economy not to offer proper training to professionals. Currently in Scotland, there is a shocking lack of services, resources and training. I therefore urge the Scottish Parliament to implement as soon as possible the recommendations of the mental health working party and to start to address the problem of eating disorders, which affects individuals, families and—in the long term—our whole community.

**The Convener:** Thanks very much. It is a shocking state of affairs. I open the debate for questions from members of the committee.

**Helen Eadie (Dunfermline East) (Lab):** Good morning, Mrs Smith. Congratulations on bringing such an important issue to the Parliament. How did you manage to get your daughter through the illness despite the lack of facilities?

**Gráinne Smith:** I look back and wonder how I did it. I was fortunate in having a sympathetic GP. When I went to my GP in Macduff and asked what I should be doing to help my daughter, I was told that I knew more than my GP did. At that time, I was in a black hole regarding knowledge of the illness. I had a lot of good friends beside me who supported me and my daughter, but it was a living nightmare. That is the experience of all the parents to whom I speak on the helpline and at meetings.

**Helen Eadie:** I seem to recall from some women's magazines that I have read that there are some national helpline numbers for eating disorders. Is a national resource available anywhere in the United Kingdom?

**Gráinne Smith:** There are a lot of fragmented services with a lot of good will. There are some excellent services, but they are fragmented and dependent on personal interest. Some doctors are trying very hard to make a difference, but they lack

resources and training. They cannot offer their colleagues training and there is no general provision. There is no co-ordinated approach, which is what has caused the present situation.

**Helen Eadie:** What books, leaflets or pamphlets on the matter are available to help people?

**Gráinne Smith:** The Eating Disorders Association is a very small national charity that is punching way above its weight. If someone gets in touch, it will send them leaflets and information. I have brought one or two such leaflets with me for the committee. I will also give you a copy of my speech, if that will help. However, there is no specialist hospital or co-ordinated national professional resource where people can go and ask for help—it is all voluntary.

**Dr Winnie Ewing (Highlands and Islands) (SNP):** How long does it take someone to develop anorexia? Let us start with your daughter's case. You said that she had a bad marriage.

**Gráinne Smith:** Yes.

**Dr Ewing:** Was she anorexic by the time that she came to you, at the end of the marriage?

**Gráinne Smith:** She came home when she was 21. At that time, there was absolutely no sign of any eating problem. She looked, sounded and was healthy. She said that, when she was married, her husband was away a lot. She was not allowed to go out, so she comfort ate. When she came home, she was unhappy about her weight, although she was not overweight for her height, and she started dieting. Then she began exercising. Most people who go on a diet do not develop an eating disorder, but certain people who have a genetic vulnerability will develop anorexia or bulimia.

**Dr Ewing:** How long did it take?

**Gráinne Smith:** In my daughter's case, she was diagnosed when she was 22. She did not tell me until she was 23. All that time, I saw her losing weight and I thought that she had cancer. If I had been right and she had had cancer, she would have been offered a care plan. It was literally like living a nightmare. I had to watch my daughter become skeletal while she denied that she was ill and I was unable to help.

**Dr Ewing:** My second and last question is about self-awareness. Your daughter knew what she was doing to herself by not eating, but did she fully understand what she was doing?

**Gráinne Smith:** No. It is a sort of compulsion, like a drug addiction or an addiction to alcohol. Unfortunately, people can have a genetic vulnerability to such compulsive behaviour.

**Dee Affleck (North East Eating Disorders Support (Scotland)):** Most people—I would say 99.9 per cent of people—develop an eating

disorder as a coping strategy for dealing with something that is happening to them psychologically. Therefore, although they may appear very ill and emaciated and in a lot of distress, they will not be aware of that because they are using it as a coping strategy. They may be in denial that there is a problem. That can become a source of conflict for families and carers who witness the situation. The family may be in fear of what might be wrong with the person, because there seems to be no answer to the question that is obviously being posed. Most people develop anorexia, bulimia or any of the other eating disorders as a coping strategy.

**Gráinne Smith:** They use it as a coping strategy in response to stress.

It took my daughter about two years to develop anorexia, but I have heard of children—the youngest is eight—who have developed the condition. I have spoken to the parents of that eight-year-old, who developed anorexia within five months after bullying at school.

**Dorothy-Grace Elder:** It is very good of Gráinne Smith to come here today. Being from the north-east, she has made a considerable journey to raise a national issue. Eating disorders are much more common than anyone would assume. I have a young friend of just 18, who is a particularly clever young woman who has been hospitalised for about eight months now because of the condition.

Why do you think that there has been no action whatever in response to eating disorders, despite the vast amount of helpful publicity that such conditions have received? Why have we, as a Parliament, and the Scottish Executive not responded at all?

**Gráinne Smith:** I would like to have the answer to that. In the past three years, I have written many letters and approached MSPs. I have also served on the mental health working party on eating disorders, which made recommendations two years ago. I regularly came down from Macduff to Edinburgh for that working party, to which I gave a lot of my time. I have also been on the mental health and well-being support group. Despite all that, I think that the situation is worse now, as the Perth unit has been closed.

**Dorothy-Grace Elder:** Really?

**Gráinne Smith:** Yes. The small specialist unit in Perth was closed.

**Dorothy-Grace Elder:** Why was that? What possible excuse could have been given for that?

**Gráinne Smith:** I understand that it was closed for financial reasons.

**Dorothy-Grace Elder:** Is not it always? I think that we also get sick of these working parties,

which seem to drag on and give a superficial glow to the matter as if something is being done.

Will Gráinne Smith or one of her two companions explain whether the young patients—teenagers and so on—are placed in wards with much older people? Are they placed in wards with people who suffer from other conditions?

**Gráinne Smith:** Yes. I can quote a recent case, although obviously I cannot give any names. I know of one young woman who was sent into a general psychiatric unit and was physically attacked by a male patient.

**Dorothy-Grace Elder:** Was it a mixed ward?

**Gráinne Smith:** I do not think so, but I think that there were mixed facilities such as a common room.

**Dorothy-Grace Elder:** Is it better that such patients should be together? Would it not be better if patients of the same age group were together?

**Gráinne Smith:** The patients need specialist treatment and help. Heather Marrison is a former sufferer and is also a professional who specialises in dealing with eating disorders. She will say a little about what facilities would be ideal.

**Heather Marrison (North East Eating Disorders Support (Scotland):** We need dieticians and those who can provide psychological help as well as the people who do the practical work of weighing the patient and monitoring the patient's progress. I was very ill and I certainly could not have got through my illness without help. I was lucky in that I am based in Edinburgh, where help is available. In rural areas, people really struggle.

**Dorothy-Grace Elder:** Were you in a good unit with other young people?

**Heather Marrison:** I was not actually hospitalised, but the young people's unit in Edinburgh receives many patients who have bulimia and other eating disorders. I attended the Cullen centre, which is an out-patient centre, where I received psychological help. Currently, the waiting list for the Cullen centre is 12 months. It takes a lot of courage for someone to go to their GP and admit the problem. Often, they need help there and then because they can deteriorate rapidly. However, there are no in-patient facilities for adults in Scotland.

**Dee Affleck:** If I may just reinforce that point, there are no specialist in-patient beds for people with eating disorders. At the moment, if someone is physically at risk, we try to have them admitted to a general ward. If they are psychologically at risk, they go to a general psychiatric ward, but most people find that very difficult. Indeed, that is difficult both for the sufferer and for the

professionals. To pick up on Gráinne Smith's earlier point, those professionals have no specialist training in eating disorders and so find it equally stressful to manage. The situation is difficult all round.

**Heather Marrison:** I was 12 when I first went to my GP. He suggested that I should just go home and have a bowl of soup. I was desperately ill and the condition had taken over my life even at the age of 12. I recovered by the age of 21 and I am now 29. It can take a long time.

**Dorothy-Grace Elder:** Very well done.

**Phil Gallie:** I have a feeling that the Parliament debated the issue. My colleague David Davidson has a family involvement in the issue, so I know that it can be distressing. One difficulty that I find is in determining to what extent such disorders are medical conditions and to what extent they are mental conditions. Even having heard the comments that have been made today, I am still confused about whether eating disorders are a mental or a medical problem. Will you expand on that?

**Gráinne Smith:** They are interlinked. When a person's weight drops below a certain level, their thinking becomes distorted. I understand that that happens in all cases of starvation. It is difficult for us to imagine this, but people with anorexia look in the mirror and see a distorted image. Their thinking becomes distorted. That is where the psychological aspect comes in. It starts off as a physical losing of weight that affects minerals and electrolytes, but it then becomes psychological.

**Heather Marrison:** In my case, it actually happened the other way round. I was depressed and unhappy. I was in a violent home environment. I did not realise that I was being horrible to myself and abusing myself because that was the way that I had learned to live and learned to treat myself. I had very low self-esteem.

It is a slow form of suicide, although it is not intentional. You abuse yourself without being aware that you are doing it. In the end, you deny yourself food. It is a way of thinking that eventually manifests itself in not eating. It is when you begin to lose weight that people take notice. That is when the physical effects of the illness come in. The way of thinking—the depression, the low self-esteem and the self-abuse—begins before that.

10:30

**Phil Gallie:** That is helpful.

**Gráinne Smith:** The fact that someone wants to go on a diet shows unhappiness with self-image. Often, although not always, the unhappiness leads to dieting.



**Heather Marrison:** It is not always a question of dieting. People who suffer from anorexia withdraw from life and deny themselves things.

**Dee Affleck:** The illness has profound physical and psychological effects. It is a chicken-and-egg syndrome—it is hard to say which comes first. It will depend on the individual.

If people start off using anorexia or any of the eating disorders as a coping strategy, because of depression or low self-esteem, for example, their depression will increase. That is one of the direct side effects of starvation. It is very difficult to give active pharmacological treatment for their depression to someone who is seriously underweight. Antidepressants just do not work under those circumstances.

There are physical consequences for young women, who are at risk of developing osteoporosis at an extremely young age. I have treated young women who have been suffering from extreme osteoporosis at the age of 25. That is one of the physical side effects.

As Gráinne Smith mentioned, people who are in a state of extreme starvation will develop a rigid thinking pattern that further compounds the problems with anorexia. They might develop obsessional traits—we sometimes see manifestations of other psychiatric disorders, such as obsessive compulsive disorder. Eating disorders are not illnesses in isolation; there are interlinked, comorbid conditions. There is a dovetailing of the physical and the psychological aspects.

Eating disorders are often silent disorders. With anorexia, only the families see the struggle of the weight loss that the individual goes through. With bulimia nervosa, people often suffer from the condition for 15 to 20 years before they seek help, because of the shame that is associated with it.

**The Convener:** The Royal College of Psychiatrists recommends that every national health service board area should have a consultant with specialist expertise in eating disorders and the Executive guidance suggests that NHS boards should consider setting up multidisciplinary teams on eating disorders. Those are just paper promises. Are you saying that, in reality, there is nothing out there?

**Gráinne Smith:** Recently I spoke to a young woman whose doctor had referred her to the specialist eating disorder unit in Aberdeen. The waiting list for that unit is several months. In the meantime, the GP, who was very worried about his patient, referred her to a general psychiatrist. When she saw the general psychiatrist, he said, "I don't know why you're here—I don't do eating disorders."

**The Convener:** So not every NHS board in Scotland has a consultant who has expert knowledge of eating disorders.

**Gráinne Smith:** That has certainly not come through in anything that I have heard or know about.

**The Convener:** You mentioned that you were part of the mental health and well-being support group. Is not it that group's job to ensure that the recommendations are implemented?

**Gráinne Smith:** I think that the group is trying very hard to do that. Questions about what is happening are asked on every visit. Things are improving, but the process is very slow. So far, improvements have not fed through in any real way on the ground, for example, in meetings with parents or on the helpline.

**The Convener:** Do you think that some kind of initiative has to come from the top?

**Gráinne Smith:** Yes, definitely. Although every general psychiatrist is trained in schizophrenia and there is a set of clinical standards for schizophrenia, there is nothing like that on eating disorders. Provision seems to be very haphazard and completely dependent on personal interest. There are excellent people who do their best in the face of lack of resources and so on, but there is a lack of specialist training and a lack of sufficient opportunities.

Training is available. I was asked to speak at a medical training course down in London. That is how I came across the work of Professor Scholtz, who came over from Dresden and spoke about his work in training families and professionals. A lot of very good work is going on, but it does not seem to be generally accessible to everyone. A co-ordinated approach is needed.

**The Convener:** Are there any other questions? Do any of the witnesses wish to make any other points that we have not asked about?

**Heather Marrison:** It is important to stress that, if intervention is taken early on, eating disorders can be prevented. The longer the condition goes on, the stronger the hold that it has on the individual and the more difficult it becomes to treat it.

**The Convener:** We need to have an infrastructure of services to provide that early intervention. Without such an infrastructure, early intervention does not happen.

**Heather Marrison:** On current resources, the waiting lists are massive.

**Gráinne Smith:** I have brought with me a leaflet from the Eating Disorders Association, entitled "The hidden cost of eating disorders", which outlines the social costs as well as the costs to

families. I can leave it with the committee. I have also brought a copy of what I have said, which includes the statistics.

**The Convener:** It would be useful if you could leave that information with the clerks. We will ensure that the members get it, so that it can influence them.

Thank you for your testimony, which has been very helpful to the committee. You are free to listen to the discussion about what to do with the petition. You should understand that, as today's meeting is the final meeting of this Public Petitions Committee in the current parliamentary session, it will be the next Public Petitions Committee that takes up your petition. We hope that it will be possible to get some work done on it in the intervening period.

**Gráinne Smith:** Thank you very much for giving me the opportunity to appear before the committee.

**The Convener:** That is what we exist for.

I ask members to look at the suggested action. As this is our final meeting, we cannot do very much other than write to the Scottish Executive and the mental health and well-being support group, to ask them to respond to the claims that there is a lack of in-patient beds, specialist assessment and support, specialist training for professionals and offers of support on discharge for those who suffer from eating disorders. We should ask them whether they are satisfied that local health boards provide adequate and appropriate treatment and care for people with eating disorders in their localities and should ask why they have failed to endorse the Royal College of Psychiatrists' recommendation that there should be a consultant with specialist expertise in the treatment of eating disorders in each NHS health board area. We could also write to the Royal College of Psychiatrists to seek its comments on the issues that the petitioners have raised this morning.

Do members want to suggest any other action?

**Dr Ewing:** When we write, could we include a copy of the leaflet to which Gráinne Smith referred and of the statistics, which show how serious the situation is?

**The Convener:** We could do that. It is also suggested that we draw to the attention of those to whom we write the necessity of early intervention as a means of preventing the development of eating disorders.

**Helen Eadie:** I want to pick up on the point that Mrs Smith made about Professor Scholtz of Germany. Perhaps we could ask the Scottish Executive whether it would consider examining the feasibility of some kind of trans-European

exchange of best practice between Germany and Scotland. It seems that Professor Scholtz might have something to offer us. I am interested in the issue. We could ask the Scottish Executive whether that would be practicable.

**The Convener:** We could do that.

**Dorothy-Grace Elder:** The situation is shocking. The issue of eating disorders seems to have fallen out of the loop in the Parliament. Many people assumed that something was being done. We should never assume.

Could we write to the Cullen centre? Ms Marrison mentioned that its waiting list is about 12 months. That is an example of a centre of excellence being pulled down because it might have to take patients from other particularly deprived areas. We know that patients with other conditions shift between Glasgow, Edinburgh and the north. It is a terrible situation when a good centre is being pulled down and nothing is being done about the areas that are altogether empty of help.

It is a pity that no one started a cross-party group in the Parliament on eating disorders. I hope that all the members who are here are re-elected and that one of them considers doing that. We have to charge ahead with the issue in the new session.

**The Convener:** When we write to the Executive, we will ask for details of waiting times for access to the clinics in Edinburgh, Aberdeen and any others.

**Dr Ewing:** Perth.

**The Convener:** We will also ask for information on why the Perth centre is closing.

**Dorothy-Grace Elder:** We could ask for that information from the Scottish Parliament information centre, because it tends to give better answers than the minister.

**The Convener:** The ministers are supposed to be in the know. They should know what they are doing.

I thank the petitioners for their attendance this morning. You have raised an important issue and hopefully the next Parliament will be able to take it up. We will certainly recommend that it does so.

### **Renewable Energy Projects (Funding) (PE615)**

**The Convener:** The second new petition today is from Mr Peter Hodgson, on the funding of renewable energy projects. Mr Hodgson asks the Scottish Executive to reconsider the funding of renewable energy projects to encourage the development of sustainable sources that contribute to the Kyoto agreement.

Mr Hodgson is here on his own. The rules are the same: you may give a three-minute presentation and then I will open up the discussion to questions.

**Peter Hodgson:** My inclination is to be greener than Greenpeace and friendlier than Friends of the Earth. I fully support renewable and reusable everything, but not when it fails to yield environmental benefits.

The climate change levy on industry has been introduced to reduce emissions, and the Scottish Executive has correspondingly set targets for renewable energy. Unfortunately, as is so often the case, achieving the target has become more important than the reasons for setting it. The criterion has become the speed of getting projects up and running rather than an examination of the effectiveness and sustainability of the technology involved. Political pressures coupled with financial gains mean that supportive rumour becomes unchallenged fact and unpalatable fact is ignored.

For example, for many years the wind farm lobby has claimed that wind farms are tourist attractions, and the Scottish Executive has believed that. A recent independent survey from VisitScotland, which shows that tourists will not visit wind farm areas, is ignored by the Scottish Executive and the industry and denied by the minister responsible for energy. For many years, the wind farm industry has said that the people who live close to wind farms like them. Now that the validity of the data to support that claim is discredited, the Scottish Executive and the industry dismiss that fundamental error as a minor glitch.

Even today, power companies claim that emissions are eliminated by using wind farms. Adverse reports that were published last year and that show virtually no reduction in emissions are ignored, although those reports were commissioned by the power industry and the politicians and included findings from the University of Oxford and the University of Manchester Institute of Science and Technology. The provision of renewable energy from the most immediately available source has become more important.

The most effective way of encouraging sustainable renewable energy and the ensuing long-term jobs is to base rewards on achievement. We already have over-capacity of power. The real achievement should be a genuine reduction of emissions, not more energy production. After all, the stated aim of the climate change levy was that it should pay for renewable energy.

**Dr Ewing:** As one who goes to Orkney regularly, I suggest that the windmills there are a tourist attraction.

Will you give me an explanation of the phrase

"The use of the CCL fund in this way is harming the development of less commercial (but genuinely 'green') renewable sources"?

What are genuinely green sources? I am not an expert on the subject.

**Peter Hodgson:** Hydro is genuinely green, because it thoroughly replaces carbon-produced energy. Unfortunately, with intermittent or unpredictable sources, such as wave power, the national grid does not know from minute to minute what power it has available. It is essential that the national grid has that information because if there is too little power, we get power cuts, and if there is too much power, we get brownouts, which are even worse. The national grid is performing a balancing act.

To overcome that, the national grid always has a base load that is generally nuclear powered and has several levels. To cover for intermittent sources of energy, it has coal-fired stations where the boilers are fired up with a substantial amount of steam near enough to full load, and the turbines and generators are turned at what is called synchronised speed, which means that they are on-line and lightly loaded. Therefore, we save nothing, because the boilers are still running, and if the boilers are running, there are emissions.

10:45

**Dr Ewing:** Is that the way in which Denmark deals with the situation?

**Peter Hodgson:** Denmark is withdrawing subsidies because of that problem. It has carried out calculations that have shown that, even with the existing penetration of wind farms, Denmark has saved only 0.1 per cent of emissions. The Danish say that wind farms are not environmentally viable.

**Phil Gallie:** I sympathise with your view on hydro power, given that I was the manager of two major hydro complexes in Scotland, in Galloway and Lanark. That said, I searched the whole of south-west Scotland for additional sources of water that would add to our 109MW output, but there was nothing of significance to add. From where would you get your additional hydro power?

**Peter Hodgson:** I mentioned hydro only as a source of genuine renewable energy. There are others, such as tidal, barrage—which might be environmentally unfriendly to wildlife—and biofuels. There are all sorts of other energies, but because wind farms are so quick to get up and running, there is a rush to use them when there ought not to be. We should consider the issue properly and gently and do the job once and for all.

**Phil Gallie:** I have some sympathy with you but perhaps you will have no sympathy with my view that nuclear energy is the best way of cutting emissions and the cleanest way of generating electricity, if we have to have it.

Do not far greater problems with emissions come from the motor car and the aircraft industry?

**Peter Hodgson:** I could not agree more, and that is one of the reasons why I brought the petition. We need to look at the broader picture.

You are correct to say that transport is the biggest polluter, and no progress is being made on that. Energy saving is another aspect of the issue. An expert told me that if we spent the same amount of money on insulating houses to the Swedish standard, we would need to produce only one third of the electricity that is currently produced. There would be as much money available and as many jobs produced through that industry as there would be if Denmark produced some turbines for us, or if someone in Lewis produced stanchions for windmills. We just seem to be going in the wrong direction.

**Phil Gallie:** On your point about home insulation, my knowledge of the situation goes back to the early 1980s. Since then, we have had programme after programme on house insulation in the UK. By now, has not everyone been insulated?

**Peter Hodgson:** I do not think that that is true, with all due respect. There has not been the incentive, either through the level of grants or through legislation, which would probably be the best way, as building regulations could be strengthened to make it essential for new houses to be built to a much higher standard than exists at present. I am talking about five layers of double glazing—not only two—and about houses being dug into the ground to tap into the inertial heat within the ground. Those would be major changes.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** You said that, in your opinion, renewables such as wind, wave and tidal were unpredictable—to say the least—and that a constant volume of generation could not be guaranteed. Which of the three is the most appropriate? We have a constant tidal flow around the coast, and tidal generation might be more predictable than wind generation.

**Peter Hodgson:** Yes. I would not say that tidal generation is an unpredictable source; it is highly predictable. If there were generators on the west coast and the east coast, one could predict that they would produce the same amount of electricity minute by minute and hour by hour. I have figures that show that with some of the intermittent sources there can be as much as a 15 per cent fluctuation over half an hour. We must bear it in

mind that the output of wind turbines is proportional not to the wind speed but to the cube of the wind speed. If the wind speed doubles, the output goes up eight times and if the wind speed doubles again, the output goes up 64 times. One has only to stand on a hill to feel the fluctuations in the wind; some of that is ironed out by the inertia, but not over a half-hour period. That is what the grid cannot cope with.

It is predicted that an 8 per cent penetration of the market by wind farms will cause brownouts, such as the Danes had on new year's day in 2002, when there were heavy gales. They had to beg Germany, Norway and Sweden to take the surplus power, otherwise, Denmark would have been blacked out. We do not have those facilities. We do not have interconnectors with other countries; if we did, they would be horrendously expensive. The cost is already going up with distribution. People have received increased power bills from Scottish Power. We have surplus power now, so why do we have to pay more? With an interconnector down the east coast, electricity prices would go up by a minimum of 14 per cent—some people say that, in such a scenario, electricity prices would go up by 21 per cent. Would that make our Scottish industry competitive?

**John Farquhar Munro:** You make the point that generation is not constant or predictable and that therefore it is difficult to control. The reverse of that position is that the same thing happens now with existing generation systems, whether nuclear or oil, but particularly nuclear. There is a demand on generation at certain times of the day, and because of the time that it takes to shut down generation, there is a surplus of energy that must be dissipated.

**Peter Hodgson:** Nuclear power currently provides what is called the base load, which, as I understand it—I am not an expert—is the highly predictable, year-in, year-out minimum load. On top of that are various other stages in the make-up of electricity input. At the top of the pile are generators that generate a little bit of steam. Those generators are not connected to the grid but are slowly turning round. There is a whole stack of generators at that level going up and down.

I do not disagree with Mr Gallie's point that we will almost certainly have to have more nuclear power. The sad fact is that the more intermittent energy that we put into the system, the more we will need nuclear and coal-fired power stations and gas-fired turbines, which are what we are trying to get away from. If we move to more sustainable energy, such as tidal and hydro—if we could find the right locations—all those problems would be overcome, but they will not be overcome by the current approach.

**Dr Ewing:** What is also predictable about nuclear energy is the impossibility of getting rid of the waste that it produces, which is not very green.

**Peter Hodgson:** I do not want to get into an argument about the nuclear industry, because that is not what I am here for.

**The Convener:** It is not the subject of your petition.

**Peter Hodgson:** It is a problem, but I do not know the answer. We may be forced into having more nuclear power because of the lack of foresight in the current approach.

**The Convener:** The way that the system operates is that certificates under the Renewables Obligation (Scotland) Order 2002—ROS—are issued to electricity suppliers, which must provide so much green electricity. You suggest that the easiest thing for the suppliers to do is to put up wind farms because that is quick, cheap and will hit the target of 40 per cent by 2020. However, you also suggest that that approach will in itself cause problems, so we should take a much more studied approach that uses hydro, solar and tidal energy, biomass and energy savings, which are all less quick answers to the problem. You think that there has been a rush to wind farms and that that should be stopped.

**Peter Hodgson:** That is correct.

**The Convener:** There are no more questions. Do you want to make any other points?

**Peter Hodgson:** No, thank you.

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

It is suggested that we write to the Scottish Executive to seek its comments on several points. We should clarify the criteria that must be met by electricity suppliers in order for them to be awarded a ROS certificate by the Scottish Executive, particularly in relation to their contribution to reducing emissions. We should ask the Executive to comment on the fact that wind farms will not necessarily reduce emissions as such. We should also ask the Executive to comment on the petitioner's concerns that its approach to issuing the certificates fails to promote the development of less commercial, but genuinely green, renewable energy sources—as we have heard this morning—and disadvantages the consumer through increased prices. We should seek the Executive's views on the petitioner's concerns about intermittent sources of energy, which, he claims, incur significant back-up costs and fail to contribute to the Kyoto protocol targets. Finally, we should ask for further details of the alternatives to intermittent power, such as wind power, which are being promoted by the Executive with a view to meeting Kyoto protocol targets and the aims of the climate change levy.

The petition will be dealt with not by us but by our successor committee. However, somebody will keep the petitioner in touch with the responses when they come in. At that stage, our successor committee will take a decision on the petition. I thank the petitioner for attending.

### **Military Action in Iraq (Legality) (PE619)**

**The Convener:** A further new petition was received too late to be issued with the committee papers, but I thought that we had better deal with it. I think that members have all received it.

PE619, from Professor Eric Clive and 62 other lawyers and academics, is on the subject of the legality of military action against Iraq. It calls on the Parliament to express a view

“that no case for military action against Iraq has been proven;”—

and that it

“believes that no United Kingdom forces should take part in any military action without a United Nations mandate that specifically authorises such action and is based on clear, compelling and published evidence, and believes that any pre-emptive action by the United States of America and the United Kingdom without such a mandate would be contrary to international law.”

It is obviously too late to deal with the petition, given that the war has begun, but the question of the legality of the war is a matter that may be an issue long after the war is over.

We can either take no further action on the petition or we can agree to request comments from the Attorney General, who claims that the war is legal, and leave it to our successor committee to respond to the response that we get from the Attorney General.

**Dr Ewing:** We have a law officer of our own; can we not also ask him?

**The Convener:** In this case, he would probably refer the matter to the Attorney General because, within the Cabinet, it was the Attorney General's decision.

**Helen Eadie:** Should we refer the petition to Westminster, given that this is primarily a matter for the Westminster Parliament? The decision should be made by the Westminster Parliament.

**The Convener:** The petition asks the Scottish Parliament to take a view. Before we could do so, we would have to hear from the Attorney General, who claims that the war is legal. The minimum that we should do is ask the Attorney General for his arguments in response to the petition.

11:00

**Phil Gallie:** The Scottish Parliament has taken a view on the issue—there is nothing in the petition

that has not been debated in the Parliament. The Parliament was obliged to consider the Attorney General's opinion and it accepted that opinion. A major concern for all members who took part in the parliamentary debate was that our troops should not act illegally when they are sent abroad. The Scottish Parliament received an assurance on that point from Mr McConnell. Given that our servicemen are in military action in the middle east, we should do nothing to upset the apple-cart.

As the convener rightly said, the matter might be re-examined by bodies other than the UK Government in the future. However, the people responsible are not those in our armed forces, but members of the Government. To a degree, we would be irresponsible if we ventured into the matter by passing on the petition other than in the way suggested by Helen Eadie.

**Dorothy-Grace Elder:** There is a good case for passing the petition to the Justice 1 Committee. Scottish troops have been sent in and, tragically, some have died. The Parliament has as much right to a voice as Westminster or the representatives of any other part of these islands have. Rather than refer the petition to the appropriate law officer, we should send it to the Justice 1 Committee. We do not know what will happen in the next few weeks or months or how the legality of the action will be viewed, even in the medium term.

**The Convener:** There is no point in passing the petition to the Justice 1 Committee because it will not have any more meetings.

**Dorothy-Grace Elder:** I meant the successor justice committee.

**The Convener:** We would first have to reach a view on the petition, but we cannot possibly do so at this stage because we are not qualified to do that. I suggest that we write to the Attorney General so that our successor committee can consider his response and take a decision in its own right. That action would not be taking a view on the petition, whereas if we decided to rule out the petition, we would be taking a view on it. I suggest that we do not take a view, but do what we would normally do, which is seek the views of the Attorney General and leave the matter to the successor to the Public Petitions Committee.

**Dorothy-Grace Elder:** We should not rule out the petition.

**Helen Eadie:** We should seek the view of the Attorney General, although I support almost everything that Phil Gallie said. I also refer members to some of the speeches that were made by Scottish members during last week's debate in the House of Lords. I ask the clerks to examine that debate so that they can inform our successor committee about the comments that

were made about so-called legal expertise and the Attorney General's contradiction of those comments.

**The Convener:** If you tell the clerks to which part of the debate and which lords you refer, I am sure that that can be done.

My suggestion is simply for an information-gathering exercise to allow our successor committee to deal with the petition. The petition should have been held back in the pipeline, but because it is topical I thought that it should be brought to members' attention.

**Dr Ewing:** You were right to do so, convener.

**Phil Gallie:** I feel strongly about the matter and I recognise that others also have strong feelings. However, I have only one interest, which is the uncertainty that would be raised in the minds of our armed forces if a parliamentary body questioned the legality of their actions. We have sought and received assurances from the highest politicians and legal minds in the land that our servicemen are acting legally. Any challenge to that opinion at this time would be folly and I would not be prepared to support it. I ask members to put themselves into the minds of servicemen and to imagine the query in their minds if they wondered whether, at the end of the day, they could be brought before the International Criminal Court. The people who are responsible are our politicians and law officers—we should leave the matter at that at the moment.

**Dr Ewing:** One could argue the same about Hitler's Germany. Mr Gallie takes the dangerous line that we have a right to stifle free speech—we should not take such a line.

**The Convener:** The petition has been properly framed and brought before the committee and we must deal with it. We should not pass judgment on the petition by supporting or opposing it; we should simply facilitate our successor committee's handling of it. My suggestion is not that we should take a view on the petition but that, as always, we should allow the authorities to respond to the issues in the petition. We have a responsibility to the petitioners to try to facilitate the serious consideration of their petition. We will not deal with the petition this morning because we are not sufficiently informed to do so, but we should seek information to allow our successor committee to reach a conclusion.

**John Farquhar Munro:** The final paragraph in the recommended action on the petition would suffice. We should seek the comments of the Attorney General, after which the matter will be up to our successor committee in the new Parliament.

**The Convener:** Yes. We cannot make a decision on the petition because, if we did so, we

would be taking a position on it. I suggest that we do not take a position on the petition because we cannot respond to it until we have received comments from others. By seeking comments, we will not in any sense undermine British forces or anyone else—we will simply facilitate our successor committee's dealings with the matter. Is my suggestion agreed to?

**Members** *indicated agreement.*

**The Convener:** I would like to have a five-minute suspension at this point, because the BBC wants to do a piece about the final meeting of the Public Petitions Committee. If that is okay, we will reconvene at 11.10.

11:06

*Meeting suspended.*

11:12

*On resuming—*

## Current Petitions

### Crime Victims (PE408)

**The Convener:** In view of the fact that we have 20 current petitions to deal with, I ask members to concentrate.

The first current petition is PE408, from Mrs Aileen McDermott, on procedural issues for victims of crime. The petitioner was concerned that victims of crime get a raw deal under the current criminal legal system. We agreed to write to the Executive and to Victim Support Scotland. We have received a response from the Executive, but not from Victim Support Scotland. Members have a copy of the Executive response and also of the Executive's "Scottish Strategy for Victims" document.

The Executive appears to have taken a range of steps to address the majority of the concerns that the petitioner raised. However, in view of the petitioner's direct experience of dealing with the justice system, which prompted her petition in the first place, it is suggested that we agree to seek the petitioner's comments on the Executive response. The next Public Petitions Committee will consider her response in the new session. Is that agreed?

**Members** *indicated agreement.*

### Radioactive Contamination (PE444)

**The Convener:** The next petition is PE444, from Mr Alan Berry, on the subject of the quantity of radioactive substance in Scottish coastal seawater and marine life.

We agreed to seek the views of the Executive and the North Atlantic Fisheries College. We have received a response from the Executive only recently, but have not yet received one from the college. The Executive suggests that we approach the Scottish Environment Protection Agency and the Food Standards Agency Scotland for further information on the monitoring research that is being conducted in this field. I suggest that we do so and that we ask SEPA and the FSA to address the petitioner's concerns.

I also suggest that we continue to pursue a response from the North Atlantic Fisheries College and that we extend an apology to the petitioner for the lengthy time that it has taken to progress the petition. I further suggest that we send a copy of the Executive response to the clerk to the Transport and the Environment Committee for information only.

11:15

**Dr Ewing:** There is a case before the Court of Session about radioactive substances on the beach beside Dounreay.

**The Convener:** Petition PE444 will continue to be an active petition in the next session of Parliament.

**Phil Gallie:** Given that the clerk has chased up PE444, it seems that if we give an apology, we will be apologising to an extent on behalf of others. Few petitions have run for as long as this one, or for as long without a reply being received from the Executive.

**The Convener:** We are not apologising for anything that the clerks have done. The clerks have always done an excellent job. We are apologising because of the problem that arises when the people to whom we write—in this case the Executive—do not respond. We are making an apology for the time that it has taken to get a response out of the Executive. Is the suggested approach agreed?

*Members indicated agreement.*

### **Tolls (Trunk Roads) (PE445)**

**The Convener:** The next petition is PE445, from Ms Stella R Anderson, on the subject of the Skye bridge. Members will remember that we have considered the petition on a number of occasions and that we agreed to write to the Executive requesting additional information. After a very lengthy delay and several reminders from the clerk, a response has at last been received, although it provides little by way of new information. The response simply emphasises the Executive's view that the toll order and the assignation statement are valid and comply fully with the relevant statutory requirements.

The Executive emphasises that the decision to stop tolling at the Erskine bridge in August 2001 bears no relationship to the position at the Skye crossing. The Executive goes on to say that the petitioners' concerns about the validity of the documents in question have been considered by the House of Commons Statutory Instruments Reference Committee and found to be in order. Further to that, the chairman of the Joint Committee on Statutory Instruments informed the petitioners that the instruments in question do not fall within its remit, as the instruments are confirmed to be local instruments by the Statutory Instruments Reference Committee.

In addition, the Executive argues that the issues that the petitioners raised about the financial arrangements are linked to contractual matters, which the Comptroller and Auditor General of the UK Parliament examined and found to be in

order—I hear the sound of cynical laughter coming from my right.

**Dr Ewing:** It was my cynical laughter that you heard.

**The Convener:** It is important to remind members that, ultimately, the matter is one for the courts to reach a view on. In the appeal court ruling of 16 December 1999, the judges said that they were quite satisfied of the legality of the documents in question and gave full reasons for why they reached that view. In his previous response to the Public Petitions Committee, the Lord Advocate acknowledged that the petitioners may disagree with that view, but made it clear that "the Opinion is set out comprehensively and is binding".

The Executive claims that the petitioners' concerns have been fully considered and responded to by the appropriate authorities.

It is suggested that we agree to take no further action on the petition and suggest to the petitioners that a more appropriate way to achieve further parliamentary consideration of the Skye bridge tolls issue might be to lodge a petition calling for a review of the policy matters involved rather than to seek an investigation of issues that have already been dealt with in the courts.

The matter is incredibly complex and I have found it hard to keep up with every claim and counter-claim. I would not be averse to asking the petitioners to respond to the Executive response and letting the next Public Petitions Committee deal with the petition from that point on.

**Dr Ewing:** I am puzzled by the Statutory Instruments Reference Committee's view that the instrument is a local instrument. I understand that the word "local" applies to a small stretch of road, but we are talking about a life-link to an island—one that affects all of the island's businesses and communities. Surely the commonsense view of the committee's decision to dismiss the bridge in that way is that its decision was flawed.

**The Convener:** I am sorry, but I am trying to listen to two different people at the same time. The clerk tells me that that is how the law operates at present. The issues should have been picked up when the primary legislation was passed. As they were not, they are applied in that way.

**Dr Ewing:** That is not the petitioners' fault.

**The Convener:** I agree.

**Dr Ewing:** My memory goes back to the beginning of this business. I have evidence in writing from the then Secretary of State for Scotland that the contract was awarded to Miller before the public inquiry was held in Portree.

**John Farquhar Munro:** That is correct.



**Dr Ewing:** My expert friend agrees with me. As far as the people of Skye are concerned, the whole business has been dealt with dreadfully badly.

**The Convener:** The issue is complex. All those matters have been addressed, if not quite dealt with.

**Dr Ewing:** They have been brushed under the carpet.

**Phil Gallie:** On Winnie Ewing's comment, I am not sure whether Skye is an island under European regulations. I think that there has been a change.

That apart, now is a good time to return the petition to the petitioners. They will achieve their objective only by taking the matter through the political process. We are going into a situation in which political arguments will be very much to the fore. It will be in the petitioners' interests to challenge and chase their candidates to see whether their objectives can be met through any of the available political options. In doing so, perhaps the petitioners will bear in mind the promises that have been made on previous occasions and the fact that, ultimately, they have a judgment to make. There will be nothing to stop them introducing a similar petition after the election.

**The Convener:** Do you wish to leave the petition?

**Phil Gallie:** I would kill off the petition, and let the petitioners do what they feel to be politically right. It is a great chance for them.

**Helen Eadie:** This is a good example of our clerking team having been very analytical in trying to find a way to help the petitioners. The clerks' helpful idea in the final paragraph of the suggested actions is a most constructive and good way to proceed. It states that the petitioners should stop beating their heads against a brick wall as far as the courts are concerned and suggests that they could proceed with the petition through a sound political process.

Recent newspaper reports have hinted that, if Jack McConnell is returned after the election, the coalition partners will consider removing the tolls on the Skye bridge. I do not know whether those reports have any foundation—I know that that is a very big "if".

I support the section in the last paragraph that recommends that we take no further action but suggest to the petitioners that the best way forward is to achieve further parliamentary consideration of the Skye bridge tolls by introducing another petition in the next session.

**The Convener:** As I understand it, two members support taking no further action and two wish to ask the petitioners to respond.

**John Farquhar Munro:** As everybody has said, this complex issue has been argued and debated for many years, not only in the Parliament in Edinburgh, but in Westminster, Europe, and the law courts. We still seem to be at a dead-end, because we are not getting anywhere—we are not getting the appropriate answers. Even if we do get answers, they are doing nothing to relieve the burden of the tolls on the bridge. There is no question about that.

The argument will not go away. The situation will not be helped even if the committee suggests that the petition should lapse or be put on hold—the tolls will still be on the bridge. It is not surprising that there is confusion, because from the outset the petitioners and those who oppose the tolls on the bridge have argued in the courts that not paying the fee is not a criminal offence because, they suggest, the tolls are a service. The courts decided that the toll was a tax, which it was an offence not to pay, and those who did not pay were given criminal convictions. Many people in Skye and Wester Ross who went through the courts were convicted for not paying the toll.

Europe has now decided that the toll is, in fact, a service. One pays a service charge for using the bridge, and consequently, there is a responsibility to pay VAT, which is another retrospective expense from day one. The VAT does not impinge on local users because Parliament took a decision at the outset to freeze the tolls on the Skye bridge at their existing levels for the duration of the contract. I mention that to illustrate the confusion that exists even within the law.

This is quite an issue. I sympathise with the petitioners and with those who have campaigned against the charges on the Skye bridge. I think that we should keep the petition live and should suggest to the petitioners that they approach the new members next session and continue the fight.

**Dr Ewing:** I agree with that.

**The Convener:** I judge that to be 3:2. Do we want to go to a formal vote, or shall we just agree to keep the petition live?

**Dr Ewing:** Dorothy-Grace Elder is in the room, too.

**The Convener:** Sorry, Dorothy—I had not noticed where you were. You are on the move.

**Dorothy-Grace Elder:** I apologise.

**Dr Ewing:** Come and take part in the vote please, Dorothy.

**The Convener:** I saw her empty seat and did not know where she had gone.

**Dorothy-Grace Elder:** I am so sorry—I had left my seat to speak to the clerks about Dr Cumow's attendance later in the meeting.

**The Convener:** We are on the Skye bridge petition.

**Dr Ewing:** We are going to vote.

**Dorothy-Grace Elder:** Oh, right.

**The Convener:** Three people have indicated that they want to keep the petition live and to give the petitioners a chance to respond to the latest Executive response; two members have said that they would rather we stopped the petition and allowed the petitioners to introduce a new petition.

**Dorothy-Grace Elder:** No—we must keep the petition live.

**Phil Gallie:** That was before we heard from John Farquhar Munro, the local member. We have heard how he feels, and I recognise that he speaks for his constituents. On that basis, I would not wish to oppose him. I suspect that the matter will become an issue during the election campaign in any case. I will go along with the local member's views.

**Helen Eadie:** I would be happy with that.

**John Farquhar Munro:** It will indeed become an issue in the elections. Our party leader recently said that we would remove the tolls from the Skye bridge, and I understand that Jack McConnell, on a visit to Winnie Ewing's constituency, has suggested that Labour would remove the tolls from the bridge. My question is on the timing. When will that happen?

**The Convener:** It has just been brought to my attention that Westminster has had its say on the matter. It thinks that the tolls are perfectly in order, and the courts have confirmed that they think them to be in order. The only way to change that would be to change the law. We should at least give the petitioner the chance to respond to the latest Executive response. Obviously, the matter will be a political issue during the election campaign. After the election, it will be a matter not only for the Public Petitions Committee, but for the whole Parliament.

**Dr Ewing:** Speaking as a lawyer, I say that it is absolutely contrary to any law that I know that an assignation that is not signed or dated, and which is not probative, can be regarded seriously.

**The Convener:** We will get a response from the petitioners.

**Dorothy-Grace Elder:** A will would not be allowed to get through.

**The Convener:** The problem will not necessarily be ours after the election.

**Dr Ewing:** I agree with Dorothy-Grace Elder: the same could not happen even with the most miserable little will.

## Saltire (PE512)

**The Convener:** Let us move on to PE512, from Mr George Reid, on the colour of the saltire flag. Members will recall that we approached the Education, Culture and Sport Committee to establish whether it would be willing to give further consideration to the petition. We have now received a response. Its view is that Pantone 300 is the most appropriate colour for the saltire.

It is suggested that we agree to recommend to the petitioner that that colour be incorporated in a voluntary code or guidance, along the lines of similar material that has been submitted to the committee. We may also recommend that that code should be agreed, promoted and distributed by organisations such as the St Andrew Society, the Saltire Society and the Heraldry Society of Scotland. However, it should be made clear to the petitioner and to those organisations that the decision on the colour has no statutory force and is of an advisory nature only. That should also be made clear in the guidance. Other than that, it is suggested that we take no further action.

**Dr Ewing:** According to Gil Paterson, whose business it is to deal with paint colours, the flags of all other European Union states have a fixed colour, which is recognised as statutory.

**The Convener:** Pantone 300 has been recommended.

**Dr Ewing:** It may have been recommended, but it is still voluntary. We will still see navy blue, bright blue, pale blue and so on. I do not want to upset anyone's finances by making a rule that would come into force right away but, if the flag of every other country has a fixed colour, then our flag should have one too, and it should be statutory.

**The Convener:** At this stage, given that the Education, Culture and Sport Committee has arrived at—

**Dr Ewing:** We have got somewhere, anyway.

**The Convener:** Yes, we have got somewhere. Do we agree to take no further action other than the action I have suggested?

**Members indicated agreement.**

## Educational Provision (Children with Special Needs) (PE516)

11:30

**The Convener:** The next petition for consideration is PE516, from Ms Sara Craig, on educational provision for deaf children. Members will recall that we received a response from the Scottish Executive and then sought a response to that response from the petitioner.

The petitioner was concerned that the statutory requirement for consultation on proposed school closures is confined to those parents whose children attend the school in question. The petitioner believed that parents of children who do not attend schools on a full-time basis but who benefit from peripatetic services should also be given the opportunity to submit their views on any school closure.

We raised the matter with the Scottish Executive and have now received a reply from it. The Executive makes it clear that it commends the practice of consultation and wishes to encourage participation by parents and other interested bodies in the organisation and management of the education service whenever possible. The Executive points out that, in addition to the consultation paper on the closure of Gateside School, Renfrewshire Council produced a separate consultation paper on the proposed relocation of the support service that was located there.

In view of the potential variability of the circumstances in which support services may be provided and of the nature of those services, the Executive takes the view that local authorities are best placed to consider how best to involve those on whom the proposed change might have an impact. It considers that it is not practicable to regulate through legislation the precise nature of consultation.

It is suggested that the Executive's response is reasonable and that we agree to copy it to the petitioner and to take no further action. Is that agreed?

*Members indicated agreement.*

### **Institutional Child Abuse (PE535)**

**The Convener:** The next petition for consideration is PE535, from Mr Christopher Daly, and concerns institutional child abuse. Mr Daly was particularly concerned that the Executive should follow the example of the Irish Government in recognising the need to acknowledge and support victims of past childhood abuse.

The Irish Government set up a commission to inquire into child abuse in Ireland and allocated £4 million per annum to establish a dedicated professional counselling service in all regions for victims of abuse. It also announced proposals concerning the mandatory reporting of abuse.

We sought the views of both the Executive and the cross-party group in the Scottish Parliament on survivors of childhood sexual abuse. In its response, the Executive indicates that it is considering whether an inquiry of the sort requested, or some other forum, should be

established to consider cases of abuse in institutions in Scotland and what other role the Executive might take in addressing those cases. It states that it will also consider the experiences of institutional child abuse in other countries.

The cross-party group in the Scottish Parliament on survivors of childhood sexual abuse is of the view that it is right to expect such an inquiry and that an unreserved apology from the religious orders concerned to survivors would be appropriate.

Although the Executive response is positive to the extent that it indicates a willingness to consider some form of inquiry, it is short on detail and makes no mention of a timetable for a decision on how it intends to advance the matter. It is suggested that we write back to the Executive requesting that it develops its thinking on this extremely important matter and that it provides the committee with an update on progress early in the new session. In view of the complex issues involved and the intervening parliamentary elections, a reasonable amount of time should be provided for that; a reply could be requested by the middle of June 2003. That would allow the committee's successors to consider the petition again in advance of the summer recess. Is that agreed?

*Members indicated agreement.*

### **Mental Welfare (Complaints Procedure) (PE537)**

**The Convener:** The next petition for consideration is PE537, from Alexander Mitchell, which concerns the handling of complaints regarding mental welfare. We have considered the petition at previous meetings and agreed to write to the Scottish Consumer Council, the Scottish Association of Health Councils, the Advocacy Safeguards Agency and the Scottish Independent Advocacy Alliance for comments on the way in which complaints regarding mental health care are handled. All those bodies have now responded.

The Executive indicated that a recent policy and financial management review of the Mental Welfare Commission for Scotland did not highlight any concerns about its internal procedures for handling complaints. It also explained that the new public services ombudsman has taken over the MWC's investigation of complaints relating to mental health and that it will be for her to determine how best to handle complaints that are received by her office under the new framework.

Although that is understood by the bodies that we recently consulted, views have been expressed that changes need to be made to the current system if it is to be seen to be fair and open. Suggestions include the development of

national standards and guidance against which the outcomes of complaints could be assessed and improvements in the information that is available to service users, their families and carers about how the complaints system operates.

It is suggested that the committee agrees to refer the petition in the new session to the successor to the Health and Community Care Committee and allows it to consider whether it wishes to examine the matter in more detail. Is that agreed?

**Members** *indicated agreement.*

**Phil Gallie:** We have already referred about 16 petitions to the Health and Community Care Committee. If the petition numbers are anything to go by, some of them date back to the very early days of the Parliament. I ask us to bear that in mind when we refer petitions to the Health and Community Care Committee. That is not a criticism of the Health and Community Care Committee, but a comment on the content of petitions.

**The Convener:** Phil Gallie is right. However, given the quango nature of the national health service in Scotland it was always likely that the Health and Community Care Committee would be inundated with petitions. We must also remember that the Procedures Committee's recommendations for the new Parliament suggest that, if the Health and Community Care Committee is unable to deal with those petitions, it could refer them back to this committee to carry out investigations.

**Phil Gallie:** That is worth getting into the minutes and underlining.

**The Convener:** That has been agreed by the Conveners Group, so I hope that there will be a bigger role for this committee in the next session of the Parliament.

**Dr Ewing:** I would like to point to the letter from Siobhan Samson of Friends of the Earth Scotland and the amazing quote from Ken Collins, head of the Scottish Environment Protection Agency.

**The Convener:** Have you moved on to the next petition already?

**Dr Ewing:** Am I on to the next one? I am sorry. I am getting ahead of myself.

**The Convener:** We have not got there yet.

**Phil Gallie:** That was my fault, Winnie.

### **Landfill Sites (PE541 and PE543)**

**The Convener:** Petition PE541, from Dr Buchanan, and petition PE543, from Karen Whitefield MSP, are on the development of landfill sites. We agreed to link the two petitions and we

have now had responses from a group of organisations from which we sought further information—the Chartered Institution of Wastes Management, the Institute of Environmental Management and Assessment and Friends of the Earth Scotland.

**Dr Ewing:** In the letter from Friends of the Earth Scotland, Ken Collins is quoted as saying:

“At no time has Sepa given permission for this plant to be built.”

He is referring to the incinerator in the east end of Glasgow. The quotation continues:

“We were asked if the plant can operate within safety limits with the information we have but we were not asked if it was a good idea.

We can't say 'but it is a lunatic location'”.

That is a very telling piece of information. What is SEPA for if it just avoids every responsibility? That is an incredible quote, and I would like to be critical of it.

**The Convener:** The clerk tells me that SEPA has asked to become involved only after the permission has been given to assess the environmental impact. The environmental impact assessments are not done beforehand. That is obviously a flaw in the system.

**Dr Ewing:** It is a flaw in the system and quite an irresponsible example.

**Helen Eadie:** Just as important as the point that Winnie Ewing has made is something that I discussed with Ken Collins: the health impact assessment. I keep plugging away at that point. The health impact assessment is not considered by SEPA before it goes to planning. It is only after all the planning decisions have been taken that SEPA is brought into the loop. That is a fundamental flaw in the legislative system, and I hope that that is addressed in the next session by the Transport and the Environment Committee and by the minister responsible. That has to be tightened up, and we must be able to deal with the health issues surrounding such cases.

**The Convener:** Because of the strong views expressed by Friends of the Earth Scotland and others, it is suggested that we refer the petition to the successor to the Transport and the Environment Committee. I recommend that, in doing so, we draw that committee's attention specifically to the late involvement of statutory bodies in the planning process before permission is given to those sites.

**Dorothy-Grace Elder:** I have a couple of points to make. I took a petition on the Carntyne cattle incinerator to the Transport and the Environment Committee and to the European Parliament. The Transport and the Environment Committee's

report on the petition recommended that things should be brought together at an early stage, so that SEPA had a definite statutory role as early as possible in the process. That committee is already sensibly working towards what you recommend. If our letter can strengthen its resolve, that is fine, but for goodness' sake, do we need legislation to have common sense?

**The Convener:** In this country, yes.

**Dorothy-Grace Elder:** Seriously though, that has been SEPA's line all along, through 18 months of the cattle incinerator issue. I sat in the city chambers with the MEPs two months ago and heard Mr Collins declare that SEPA is an agency of central Government and, as such, cannot oppose a decision by central Government. The decision had merely been made by a Scottish Office reporter prior to devolution—hardly a great agent of central Government, for heaven's sake. That is the line-toeing that SEPA does. Ken Collins is quoted in the Friends of the Earth Scotland letter as saying:

"We can't say 'but it is a lunatic location' because we are not a planning authority."

Clearly he thinks, as we all did, that putting a cattle incinerator amid 67,000 suffering Glaswegians is a lunatic situation—no other country in Europe has ever allowed that, and the cattle are BSE-suspect cattle—so why on earth did his people not even say that? They made no protest whatever at the planning inquiry four years ago.

**The Convener:** I have allowed you to put that on the record, but it is nothing to do with this petition, which is about landfill sites. It is a fair point, and you have repeatedly drawn the attention of this committee and the Parliament to the problem, but I hope that the flaw will now be dealt with.

**Dorothy-Grace Elder:** Yes, legislatively.

**Phil Gallie:** You have just won your tenner, convener. I guaranteed that Dorothy-Grace would get a cow in somewhere.

**Helen Eadie:** From a procedural point of view, in terms of whether the petition will be referred to the Transport and the Environment Committee, this is a bit like the previous discussion about the accountability of health boards and the fact that they are not elected. I signed a proposal for a member's bill to ensure that health boards are elected.

I take great exception to the fact that local community councils, council committees, MSPs and Westminster MPs can all declare their opposition to a development, but a reporter can come along and that one person can decide that it will go ahead. That cannot be right in this society. The Parliament needs to take that on board. I

hope that the Transport and the Environment Committee takes that on board in relation to planning legislation. It is so wrong. It is crass, stupid, unfair and absurd—it is every adjective that we can think of—that that situation should be allowed to remain.

**Phil Gallie:** I wish to make one of my pet points, and it is the reverse of what Helen Eadie said. On Ayr United's stadium, the local authority—

**The Convener:** The debate is getting a wee bit wider than the petition.

**Phil Gallie:** The local authority, the local MPs and everybody else supported the development.

**The Convener:** We should stick to the petition.

**Phil Gallie:** The reporter came along and supported it, and the Government minister rejected it. That is exactly the reverse of what has been mentioned.

**The Convener:** Colleagues, we will never get through this agenda this morning if we keep indulging all our pet subjects. It has been suggested that we refer the petition to the Transport and the Environment Committee, drawing its attention to the need to change the planning process, and leave it to that committee.

### Erskine Bridge Tolls (PE546)

**The Convener:** Petition PE546 is from Mr Alan Douglas, on behalf of Argyll and Bute Council, Renfrewshire Council and West Dunbartonshire Council, on tolls on the Erskine bridge. We have received a response from the Executive, which makes it clear that there is no prospect of a change to the tolling regime on the Erskine bridge in the short term. The Executive claims to be aware of the strength of feeling about the tolls, but takes the view that such crossings are expensive to construct and maintain, and that those who use and benefit from them should contribute towards the cost. The Executive cannot give a categorical statement as to whether tolling will continue on the expiry of existing powers in 2006. That will depend on decisions taken by ministers at the time, and will ultimately be a matter for the Parliament.

The Executive says that the tolls that have been collected in the 30 years since the bridge was opened have fallen far short of covering all the relevant costs, and it does not consider that the reconfiguration of health services in and around Glasgow and the opening of the Loch Lomond and Trossachs national park have caused significant changes to traffic patterns at Erskine.

We need to consider whether there is merit in referring the petition to the Transport and the Environment Committee or its successor, or whether we agree to take no further action and

just inform the Transport and the Environment Committee.

**Dr Ewing:** There can be no further action in view of the review in 2006.

**Phil Gallie:** There is more chance of the Executive putting tolls on the M8 than taking them off the Erskine bridge.

**The Convener:** It is agreed that we take no further action, and pass a copy of the Executive's response to the clerk of the Transport and the Environment Committee for information.

### **Further Education (Management Practices) (PE574)**

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

11:45

**The Convener:** Petition PE574, from Jeff McCracken, calls for an investigation into the management practices at Central College of Commerce, and is twinned with PE583, from Joe Eyre, on behalf of Further Education Fightback, which calls for an inquiry into the governance and management of Scotland's further education colleges.

We have now received responses from the Scottish Executive, from the Central College of Commerce and from the Association of Scottish Colleges. Members are reminded that the committee is unable to become involved in the specific issues surrounding the alleged mismanagement at Central College of Commerce, but it appears that the college has provided reasonable answers to the issues that were raised in PE574 and in the petitioner's evidence to the committee. It is suggested that the petitioner should be advised to pursue his local concerns with the college board.

On the more general issue of the governance and accountability of further education colleges, it had been hoped that the Executive would have announced the outcome of its review on the matter in advance of our meeting. However, Executive officials have advised that that is likely to be discussed by the Cabinet on 25 March, with an announcement later that week. It is suggested that we agree to defer further consideration of these petitions until the new session, when the outcome of the Executive review can be taken into account, and that we pass the responses to the Enterprise and Lifelong Learning Committee for information only at this stage. Is that agreed?

**Members indicated agreement.**

### **Livestock Premiums (PE575)**

**The Convener:** Petition PE575 is from Mr and Mrs Heron on the subject of access to premiums for livestock. Members will remember that the petitioners believed that married farm partnerships were discriminated against.

We have now received a response from the Executive and from the National Farmers Union of Scotland. The Executive confirms that businesses are not eligible under category 3b as it is specifically designed to encourage newcomers to farming who are individuals aged under 40 and making a first claim for a premium. Partnerships and companies are not eligible to apply. All partnerships are treated equally, and there is no discrimination against family partnerships. The reason for allowing only individuals to apply is to prevent existing producers from forming partnerships and applying for quota, thus depriving young new farmers of the opportunity to farm. The NFUS indicates that it supports that position.

The Executive states that the farming industry was fully consulted before categories were agreed. It also makes clear that there are no current plans to review the eligibility criteria or the categories of the national reserve, and confirms that there have been no approaches from the industry for it to do so.

The responses received appear to provide a reasoned argument as to why partnerships are not eligible for category 3b quotas, and it appears that there is no discrimination against family partnerships. It is important that that position has the support of the farming industry.

It is therefore suggested that we take no further action on this petition, but pass a copy of the response received to the clerk of the Rural Development Committee.

**Dorothy-Grace Elder:** Perhaps we should ask for the views of the petitioners on that.

**The Convener:** It seems fairly clear that there is no discrimination. If the petitioners feel strongly, they can submit their own views, but I suggest that we take no further action at this time.

### **Public Bodies (Complainers' Rights) (PE578)**

**The Convener:** Petition PE578 is from Mr Donald MacKinnon and calls for the extension of the right of absolute privilege to young and vulnerable people. Again, we sought the views of the Scottish Executive, which are set out in the papers before you.

It is suggested that the Executive's response appears to be reasonable. Extending absolute privilege to statements made about an individual

could risk non-compliance with the European Convention on Human Rights, as it would deny the individual the opportunity to seek just restitution if his or her reputation were damaged by malicious accusation. On that basis, we may wish to agree to take no further action on the petition. Alternatively, we may agree that there is merit in giving further consideration to the issue, and that it should therefore be formally referred to the justice committees' successor in the new parliamentary session.

Additional material that we have not seen has come in from the petitioner, who is not happy with the Scottish Executive's response. It refers to his circumstances and the particulars of a case that involved his own son. Is this an issue for the justice committee in the new parliamentary session, or is the Executive response adequate?

**Helen Eadie:** Shall we pass it to the successor committee? There seems to be an element of doubt about the matter.

**The Convener:** Okay, we will pass the responses of the petitioner and the Executive to the successor committee on justice.

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

**The Convener:** Petition PE581 is from Fiona Stewart on behalf of the British Hedgehog Preservation Society. It deals with the relocation of hedgehogs. Previously, we agreed to write formally to Scottish Natural Heritage, urging it to meet the petitioners and similar groups with a view to assisting in the development and trial of a hedgehog relocation programme. We have now received two separate responses from SNH, as well as additional correspondence from Advocates for Animals, the BHPS and St Tiggywinkle's Wildlife Hospital Trust. Copies are attached for members' information.

Newspaper reports have also suggested that Advocates for Animals intend to carry out an independent rescue of the Uist hedgehogs, having been promised support by private aircraft owners to fly the hedgehogs back to the mainland for relocation.

It seems difficult to see how a compromise might be reached between the parties. Scottish Natural Heritage remains of the view that a cull of the hedgehogs should begin in April, although the consortium including the petitioners seems reluctant to participate in further negotiations if SNH proceeds with the cull. Some of the campaigners might be perceived as unreasonable in their approach, particularly in planning an independent rescue. However, the consortium involved in the original negotiations has indicated that it may wish to develop a comprehensive study in a future year, and SNH has offered to provide

further advice and guide the development of such a proposal.

It is suggested that it would be inappropriate for us to intervene in SNH's decision to cull the hedgehogs in April this year, particularly given that the decision appears to be based on scientific advice. However, the committee might wish to agree to urge SNH and the parties involved to continue their negotiations with a view to developing a suitable proposal for translocation to take place next year. The committee has two choices. We could agree to take no further action on the petition or keep the petition open for further consideration and ask SNH to keep the committee informed of any developments in the area.

**Phil Gallie:** I recollect that SNH told the committee that culling would be the kindest approach, but I find that hard to accept. I am sure that, if a hedgehog were asked, it would prefer to have a chance of life. The people who have submitted the report on relocation seem to be very responsible, so why on earth can SNH not simply say to them, "Carry on and take away the hedgehogs as we catch them—we do not need a cull"? We could see how matters develop this year; we do not need to wait until next year.

**Dr Ewing:** SNH seems to have peremptorily ignored points that have been made. People who know about finding hedgehogs say that it is difficult for one person to radio-track more than about 15 hedgehogs, yet SNH has given a figure of 40 hedgehogs. It is imposing unreasonable restrictions and has behaved in a rather sad way.

**Dorothy-Grace Elder:** The Parliament will be on the hedgehogs' side rather than SNH's side. Three islands have protested about SNH's activities in other matters. Members might remember the case of the Arran farmer who could not even get an extra hectare or so for a couple of cows to make his farm viable because SNH wanted to preserve hen harriers. It seems to take a dislike to certain species. When it gave evidence to us on hedgehogs, it admitted that it was out to eliminate hedgehogs completely from the islands in question. What right does it have to eliminate a whole species? It claims that the species should not be there, but many people think that SNH should not be where it is because of how it has behaved to islanders from Yell down to Arran. We back the hedgehogs and say, "Stop the cull this year and hand the little creatures over to people who will care for them." Phil Gallie is absolutely right. Why should we wait until next year? Hedgehogs are the gardener's friend and are very useful creatures.

**The Convener:** For the sake of balance, I should say that we have been passed a letter by Alasdair Morgan, who is the MSP for Galloway and Upper Nithsdale. The letter is from one of his

constituents and supports the cull, because of the impact of hedgehogs on the bird population.

The issue is not black and white—it is not a matter of being for or against hedgehogs. People who are in favour of the cull may be for birds but not necessarily against hedgehogs.

**Phil Gallie:** The hedgehogs are foreigners to Uist and, as far as I am aware, the intention is to remove them from the island. The argument is whether they should be removed or killed. The person from Galloway who has written probably has a lot of love for the birds that he wants to protect. Provided the group in question can pass the hedgehogs to another location, his objective will be met. It seems that the last thing that the people who are involved want to do is create misery for the animals. I cannot understand SNH's argument.

**The Convener:** Again for the sake of balance, it must be pointed out in SNH's defence that it is also concerned about the health of the hedgehogs—it believes that attempting relocation would be damaging.

The situation is difficult, but I detect that members are saying that they do not want simply to drop the petition, but that perhaps we should write back to SNH. We do not have any power to make SNH do anything, but we could say that the committee's view is that SNH should continue its negotiations with the British Hedgehog Preservation Society and others with a view to trying to reach a compromise certainly for future years if not for this year, and that it should do everything in its power to try to—

**Dorothy-Grace Elder:** If possible, they should reach a compromise from this spring onwards. Once SNH starts this—and it has already started to advertise in the newspapers for people to go and trap the hedgehogs—there will be a killing system worked out for next spring. We should try to defend the protesters this spring.

**The Convener:** That is what I am suggesting. We can urge SNH to enter into negotiations with the petitioners and others who are involved to try to arrive at a compromise that would suit everyone.

**Phil Gallie:** I do not like the use of the word, "compromise". I believe that the view of the committee is that it is a case not of compromising but of doing. We should urge SNH to come to an agreement with the people who are concerned with the animals' welfare in order to have the hedgehogs removed rather than culled.

**The Convener:** I am not scientifically qualified to come down on the side of either the birds or the hedgehogs. I do not know enough about the situation to be able to make a decision at this stage.

**Phil Gallie:** It is easy: would you rather be a live hedgehog or a dead hedgehog?

**The Convener:** A live hedgehog might mean dead birds, though.

**Phil Gallie:** Not if the hedgehogs are being moved away after they are caught. We all agree that the hedgehogs will be caught anyway.

**Dorothy-Grace Elder:** There is a shortage of hedgehogs on the mainland.

**Helen Eadie:** There is a precedent for this matter. Some of you might remember a situation that involved SNH, mining communities and pigeons. In that instance, reporters were appointed by the Transport and the Environment Committee—Maureen Macmillan and me—and Alex Neil took up the cudgels as well. All of us intervened between all the parties and tried to be as helpful as we could be, recognising that the issue is made up of many shades of grey and that it is possible to have sympathy with all the arguments.

If our successor committee were to consider this matter, it might be possible for one of its members to act as an intermediary between SNH and the people who are concerned about the matter. That would help to ensure that negotiations were on-going. We need to remember that, although scientific advice is invaluable, we have to have regard to the political views that are expressed by communities. If volunteers are willing to take part in the work that would be needed to move the hedgehogs, we should use that volunteering spirit. It is clear from the documents before us that some of the people involved have a degree of expertise in that regard.

**The Convener:** I am advised by the clerk that, as the committee has not yet carried out a proper investigation, it would be wrong of us to come to a decision on this matter. However, we can decide to keep the petition open and ask SNH to sit down with the petitioners and others and agree a policy of relocation as a better alternative to culling and to keep our successor committee informed of the decision that is arrived at. Other than that, however, there is nothing that we can do. We cannot appoint reporters and so on just now as we have neither the power nor the authority.

**Helen Eadie:** That is not what I was suggesting. I suggested that the successor committee could examine the possibility of delegating that responsibility to one of its members.

**The Convener:** That is entirely a matter for that committee.

**Helen Eadie:** However, we could recommend that that happen.

**The Convener:** That committee would not be bound by any recommendation that we made.



**Helen Eadie:** We could make a suggestion, though.

**The Convener:** We can pass that suggestion on, but it would not be binding.

**Phil Gallie:** I like what you said about coming to an agreement. That statement was fine.

**The Convener:** Are we agreed to follow the action that we outlined in our discussion?

**Members indicated agreement.**

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

**The Convener:** Petition PE585 is from Alan Corbett, on behalf of residents of Reddingmuirhead, Wallacestone and surrounding villages. It deals with the siting of heroin and methadone detoxification clinics.

We agreed to write to the Minister for Social Justice, requesting her comments on the Executive's position with regard to the siting of Green Door clinics in close proximity to schools without a requirement for any consideration or approval by the local council. We have now received a detailed response from the minister, who informs us that the provision of rehabilitation services and their location is normally a matter for the local drug action team and statutory agencies, which would be the local authority and NHS boards. She also states that the Executive has no direct role in the siting of health facilities.

12:00

The case that the petitioners refer to involves a private detoxification clinic. The minister says that, because the venture is private, the normal considerations on location do not apply and the local authority and NHS board have no powers to determine where the clinic should be situated.

The minister confirms that, at present, there are no plans for an overhaul of the Town and Country Planning Appeals (Use Classes) (Scotland) Order 1997, but that, in recognition of the particular issues raised by this case, the Executive will invite planning authorities to consider whether there are wider concerns about the provisions in the order and will consider the need to undertake a revision of the order in the light of the responses received from authorities.

The minister makes it clear that, if the Executive chooses to follow that path, the mechanism for changing the use classes order to reflect the concerns expressed would involve a process of research and consultation that could not be completed in time to address the petitioners' specific concerns. However, members will recall that the petitioners acknowledged that it was unlikely that any change in the procedures would

impact on the proposals in their area. They are seeking to change the procedures for future cases.

The Executive's response is encouraging in relation to a petition on a planning matter. It is suggested that we ask the Executive to report back to the committee when it has completed its consultation of planning authorities and taken a view on how it intends to deal with the matter and that we defer further action on the petition until that response has been received from the Executive. Is that agreed?

**Members indicated agreement.**

**The Convener:** It is encouraging that the Executive has responded to the petition and decided to do something about the situation.

### **Scottish Enterprise (PE587)**

**The Convener:** Petition PE587, from Bob Brown, calls for the abolition of Scottish Enterprise on the basis of the petitioner's experiences. We considered the petition and sought the views of the Scottish Executive, which has given us a detailed response. The Executive is satisfied that the work that is currently being done by Scottish Enterprise supports small business start-ups effectively and that the procedures that are followed are appropriate. It claims that customer satisfaction levels regarding the small business gateway are high, with 86 per cent of customers being either satisfied or very satisfied. It also makes the point that access to loans is not automatic and will depend on whether proposals meet certain criteria, including commercial viability.

Members will recall that the petitioner submitted his petition because he was dissatisfied with his experience of dealing with Scottish Enterprise. He was primarily concerned that his business initiative was not supported. We must, therefore, consider whether the specific individual concerns that he has raised justify further investigation of what appears to be a reasonably successful small business gateway scheme. We must also consider his proposal that Scottish Enterprise should be abolished and replaced. I suggest that we simply note the response from the Scottish Executive and inform the petitioner of that response. Is that agreed?

**Members indicated agreement.**

### **M80 Extension (PE588)**

**The Convener:** Petition PE588 is from Sam Mitchell, on behalf of the Cumbernauld community councils M80 joint action group. We passed the petition to the Scottish Executive for its response. Members may recall that the clerks have received

approximately 20 letters in opposition to the petition from members of the public and community-based organisations in the Kelvin valley area, registering their strong objections to what the petitioners are calling for.

The Executive's response confirms that the decision by ministers to upgrade the A80 along the on-line route has been taken following recommendations from the strategic roads review, which rejected the Kelvin valley route, consideration of the central Scotland transport corridor studies reports and comments from members of the steering group and members of the wider public. The Executive makes it clear that ministers' decisions to proceed with preparation work are not subject to review. It explains that draft orders must now be produced, in line with statutory requirements, on which the public will be able to comment and to which they will be able to object. Should objections arise that require to be submitted to a public local inquiry, it would be for the Executive to justify its proposals and for objectors to challenge those. It is expected that the Executive would be able to demonstrate the merits of the proposed road against alternatives such as the Kelvin valley route at any public inquiry.

The statutory process that must be followed in relation to such major road projects provides objectors with the opportunity to make objections to the proposals and to have their objections taken into account, possibly at a public local inquiry. It is suggested that that is the most appropriate route for the petitioners to pursue in voicing their concerns, especially given the opposing views that have been expressed by the residents of the Kelvin valley area. On that basis, the committee may wish to agree to inform the petitioners of the Executive's response and to take no further action on the petition. Is that agreed?

**Phil Gallie:** This is an important issue for the whole of Scotland. I recognise what has been said. Is it a matter that the Transport and the Environment Committee could consider? The A80 is a major arterial road. Trying to make major improvements to an existing road means massive traffic disruption. In this case, the disruption will affect the north as much as it will affect the cross-flow between Fife and the west. I wonder whether the Transport and the Environment Committee should consider the matter. However, since it has been made clear that ministers' decisions to move forward preparation work are not subject to review, it might be too late for that.

**The Convener:** I have been informed that the petition asks the Parliament to reconsider the decision to opt for the on-line route as the proposed extension to the M80. However, the Transport and the Environment Committee would

not be allowed to deal with such a matter, which can be dealt with only through the local planning process. If that were not the case, anyone who wanted to stop a road proposal would be able to submit a petition to the Parliament and the Transport and the Environment Committee could hold matters up.

**Phil Gallie:** I presume that input to a public local inquiry is not restricted to local people, but can be made nationally.

**The Convener:** Anyone can object to proposals and those objections will be dealt with.

Do members agree that we should take the suggested action?

**Members indicated agreement.**

### Parental Alienation Syndrome (PE589)

**The Convener:** Petition PE589 is from George McAuley on behalf of the UK Men's Movement and is on the issue of parental alienation syndrome. Members will recall that, when we considered the petition, we agreed to determine whether the European Court of Human Rights had indeed ruled that failure to recognise parental alienation syndrome and to provide appropriate training to the relevant bodies in relation to the condition constituted a contravention of article 8 of the European convention on human rights.

The Scottish Parliament information centre was asked to provide a briefing on the issue, which has now been received. It appears from the briefing that case law in the European Court of Human Rights does not suggest that a member state would be in violation of rights under the convention if it failed to ensure that child care authorities and courts under its direction and control were made aware of PAS and provided with suitable training. Furthermore, the committee has considered and agreed to take no further action on four other petitions that relate to various issues surrounding PAS. It has accepted the Executive's view that PAS is not a sufficiently well-defined medical term to make its diagnosis certain or appropriate in legislation.

The committee has also noted that the Executive is confident that the judiciary is well aware and takes account of behavioural issues that may be attributed to PAS in reaching decisions involving children and that all staff in the appropriate agencies receive adequate training in such issues. It is suggested that we should agree to take no further action on the basis of the responses that we have received. Are members agreed?

**Members indicated agreement.**

### Care Homes (Personal Expenses Allowances) (PE591)

**The Convener:** Petition PE591, from Stuart Hay on behalf of the Senior Action Group Edinburgh, Age Concern Scotland and Help the Aged, calls for a review of weekly personal expense allowances for people who live in care homes. We agreed to write to the Scottish Executive and the Secretary of State for Work and Pensions to ask for their respective views on the issues raised in the petition. Those responses have now been received.

As members will see, there will be a 4.2 per cent increase to the personal expense allowance in April, which is in line with the increase in average earnings and above the rate of general inflation. Given the Executive's position that there is currently no justification for augmenting the allowance beyond the proposed increase, we may wish to agree to take no further action on the petition. Alternatively, we may take the view that there is merit in giving further consideration to the issues raised and therefore agree to refer the petition formally to the successor committee to the Health and Community Care Committee.

**Helen Eadie:** I would like to refer the petition to the new Health and Community Care Committee.

**The Convener:** Are members agreed?

*Members indicated agreement.*

### Amateur Boxing (PE594)

**The Convener:** Petition PE594, from Mr Thomas C S Ross, is on amateur boxing in Scotland. Members will recall that we agreed to raise his concerns with both Scottish Amateur Boxing Ltd and the international amateur boxing association. We have now received responses from both groups.

Although the AIBA has confirmed that its medical standards are not mandatory, SABL appears to suggest that all recommended medical examinations would be conducted if the necessary funding were available. As a result, it is suggested that the committee may now wish to write to the Scottish Executive to seek its views on the issues that the petition raises and on the responses that have been received. We could ask in particular whether the Executive would consider providing funding to ensure that all recommended medical examinations could be carried out.

As for the indication in SABL's response that it will seek legal advice on a specific comment made by the petitioner, it is suggested that the committee agree to write to SABL to confirm that, under section 41 of the Scotland Act 1998, petitioners are covered by absolute privilege in proceedings in Parliament. That will make the petitioner feel a bit better.

Do members agree that we should take that course of action?

*Members indicated agreement.*

### Barra Air Service (PE598)

**The Convener:** Petition PE598 is on the Barra air service, on which we tried to get the Deputy Minister for Enterprise, Transport and Lifelong Learning to reach a decision. The minister's response to us states that he announced earlier this month that the Glasgow to Barra air service is to be brought into line with the Executive's other supported air services, which are to Campbeltown and Tiree. That means that the services will be secured until 31 March 2006. The minister provides details of the nature and purpose of the proposed review of the air service.

As the response meets the petitioners' short-term objectives and will be welcomed, it is suggested that the petitioners should be encouraged to participate fully in the forthcoming review of the air service and that we should take no further action on the petition. Are those suggestions agreed to?

*Members indicated agreement.*

### Scottish Transport Group Pension Funds (PE500)

**The Convener:** We received a letter from Lewis Macdonald in relation to the petition on the Scottish Transport Group pension scheme funds surplus, but it was too late to distribute it to members. I will read it out for the record, but it will be given to our successor committee. The letter states:

"Thank you for your letter about a perceived contradiction in the respective positions of HM Treasury and the Executive with regard to the handling of Scottish Transport Group Pension Scheme surplus funds.

Recognising that the final paragraph of Paul Boateng's letter of 15 January 2003 gave potential for confusion, I wrote to The Rt. Hon. Tom Clarke CBE MP on 18 March 2003 to clarify the position. I explained that Section 14(5) of the Transport (Scotland) Act 1989 states that 'On dissolution of the Group, any sums received by the Secretary of State in consequence of the dissolution shall be paid into Consolidated Fund.' While it is true that 'the pensions fund surplus should pass to the Scottish Executive in its entirety', it is also the case that these sums had then to be remitted to the UK consolidated fund. That, of course, was the reason for Scottish Ministers having to seek the agreement of HM Treasury Ministers to retain a portion of the surplus funds to make the ex-gratia payments to the former STG pension scheme members.

The Chief Secretary's letter (referring to the Scottish Executive as successor to the Secretary of State) might appear to contradict the position as laid out in the 1989 Act, and I have asked my officials to draw this to the attention of HM Treasury.

I trust this explains the position. I do not think I would be able to add further to this explanation by meeting

pensioners or interested MSPs and responsibility for tax issues does of course lie with Treasury Ministers.

You may wish to note that the issue was also raised by Dennis Canavan MSP in a letter to me dated 24 February. Mr Canavan is, as you are aware, one of the MSPs with an interest in this matter. I replied on 18 March in similar terms to my letter to Tom Clarke.

I can confirm that the second tranche payments are to be made early in the new financial year, possibly May 2003. I recognise that this will lessen the tax liabilities on individuals in respect of income for the tax year 2002-03."

At this stage, all we can do is pass the correspondence to the petitioners and various MSPs who have taken an interest in the matter and leave the issue to be dealt with by our successor committee.

**Dr Ewing:** I think that my son Fergus argued that widows of claimants should be given the right to claim. If I recollect correctly, the committee shared that view, but now there is no mention of the widows.

**The Convener:** That issue was mentioned in an earlier reply.

**Dr Ewing:** What will be done about the widows?

**The Convener:** Nothing. There is a definite cut-off point.

**Dr Ewing:** So the authorities have discretion to do something, but they will not do it.

**The Convener:** Correct.

**Dr Ewing:** That is a disgrace.

**Helen Eadie:** I suggest that we follow the convener's advice, which is to leave the matter open for the next committee. Given that many MSPs have followed the issue, could they, too, be sent copies of the letter?

**The Convener:** A copy of the letter will be passed to members of the committee, the petitioners and to other MSPs who have taken an interest in the issue.

**Dr Ewing:** A copy should be sent to Dennis Canavan and Fergus Ewing, because they sought a meeting with the minister.

**Helen Eadie:** Sylvia Jackson and Cathy Peattie were also involved.

**Dr Ewing:** A number of members were involved.

**Helen Eadie:** Many of my constituents are involved and I would like to keep them informed.

**The Convener:** I draw members' attention to annexes A and B in the papers for the meeting, which give the status of current petitions and progress on petitions that the committee has considered since November 1999. Those annexes are for information in case members are asked about a petition, but they reflect the massive work

that the clerks have carried out. The clerks are to be congratulated on their excellent work.

We will move into private session for the next agenda item.

12:14

*Meeting continued in private.*

12:45

*Meeting continued in public.*

## Convener's Report

**The Convener:** The only item that remains to be dealt with is the convener's report. There is nothing to report, other than to thank members of the committee for the way in which they have conducted themselves over the past four years. It has been a rare privilege to be the committee's convener. I thank all my colleagues for making the Public Petitions Committee one of the best committees in the Parliament, in my view. I thank the clerks in particular—Steve Farrell, Joanne Clinton, Franck David and Christine Lambourne have been absolutely outstanding.

**Dr Ewing:** Outstanding.

**The Convener:** The way in which they have coped with a tremendous amount of work under very trying circumstances has been utterly awe inspiring. Any success that the committee has had has been due mainly to the very hard work of the clerks. We all owe them a great vote of thanks.

I also thank the official report, in particular Diarmid Mogg, who has been with us throughout the four years. Today's meeting, at which we are saying well done to him, is the first that he has missed. The official report has been outstanding in the way in which it has reported the committee's work.

We also thank the television and sound people, who are our avenue to the outside world. We pay particular thanks to the security staff, who have been unfailingly good and positive in their work for the committee, which has involved them in dealing with the public in many ways.

Finally, I again thank all the members, who have made my job extremely enjoyable, if not easy. I thank all the advisers, including Dr Curnow, for the tremendous work that they have done on behalf of the committee. I wish all members who are standing in the election the very best and I wish those who are not standing a very successful retirement—I might be joining them in retirement in the not-too-distant future.

**Dr Ewing:** There is one more thing to be said. We must thank the chair. I have been on countless committees in three Parliaments and you have been one of the best chairmen I have ever encountered.

**The Convener:** Thanks very much.

**Dr Ewing:** You have been courteous to all the petitioners and courteous to—and patient with—all the committee members, who have sometimes been unruly. The Public Petitions Committee has

been one of the hallmarks of the Parliament. It will go down in history as the jewel of the committees.

**The Convener:** Very well said.

I remind members that we have a meeting with the German petitions committee this afternoon at half-past 2 in the Apex hotel—there will be dinner tonight in Igg's restaurant, at half-past 7. I look forward to seeing members there. I know that Phil Gallie cannot come to the dinner, but he will be at this afternoon's meeting.

**John Farquhar Munro:** Where are we at half-past 2?

**The Convener:** The Apex hotel, which is in the Grassmarket.

**John Farquhar Munro:** Are we having lunch at half-past 1?

**Dorothy-Grace Elder:** Yes, we are having lunch at half-past 1. I have a Health and Community Care Committee meeting at 2 o'clock.

**The Convener:** It was at 10 o'clock this morning.

**Dorothy-Grace Elder:** You are joking.

**The Convener:** No. The Health and Community Care Committee was meeting at the same time as this committee. I sent my apologies.

**Dorothy-Grace Elder:** I had the meeting down as taking place at 2 o'clock. What happened about hepatitis C?

**The Convener:** I do not know, because the meeting was taking place at the same time as this one.

**Dorothy-Grace Elder:** Hepatitis C was the issue that I was worried about.

**The Convener:** Thank you all for all your work.

**Helen Eadie:** I must give my apologies for this afternoon, because I have a meeting of the European and External Relations Committee.

**The Convener:** We bring the first Public Petitions Committee to a close.

*Meeting closed at 12:49.*



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